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FOREWORD

The first issue of Legal Horizons for **2025** (issue 24, No. 1) offers a diverse and timely exploration of legal challenges and transformations in both national and comparative contexts. As societies across the globe confront complex socio-political dynamics, rapid technological advancement, and the evolving demands of justice, the articles in this volume collectively underscore the importance of legal adaptability, accountability, and inclusivity. The thematic diversity of the contributions reflects the authors' deep engagement with legal challenges faced by various jurisdictions and highlights the importance of interdisciplinary and comparative approaches in contemporary legal scholarship.

Opening this issue, article by D.B. Satria, Sudarsono, and Istislam, titled **“THE URGENCY OF REFORMULATING ELECTRIC BICYCLE REGULATION IN INDONESIA: A COMPARATIVE ANALYSIS WITH THE UNITED STATES AND THE EUROPEAN UNION IN REALIZING LEGAL CERTAINTY AND DRIVING SAFETY”**. The authors highlight the pressing need to update Indonesia's legal framework concerning electric bicycles. Drawing on comparative insights from the United States and the European Union, the article outlines pathways toward enhanced legal certainty and improved traffic safety. This study is particularly relevant in light of global trends toward sustainable mobility and evolving urban transportation policies.

Also featured in this issue is the contribution by G. Sobko examines the phenomenon of public intimidation linked to terrorist threats through both criminal law and criminological lenses. In his article **«CRIMINAL LAW AND CRIMINOLOGICAL ASPECTS OF INTIMIDATION OF THE POPULATION CONCERNING TERRORIST THREATS»** author analyses the existing legal frameworks and underscores the need for their enhancement in light of current security realities.

The contribution by R. Denaryo, Y.A. Setia Negara, and Sh. Hadiyantina, entitled **«PUBLIC INFORMATION DISCLOSURE IN THE PROCESS OF PROVIDING LEGAL CONSIDERATIONS BY THE ATTORNEY GENERAL'S OFFICE: A LEGAL COMPARISON BETWEEN INDONESIA AND INDIA»**, offers a comparative analysis of the regulatory frameworks in Indonesia and India regarding public access to legal information. The authors shed light on the challenge of balancing prosecutorial transparency with the effectiveness of legal processes.

In the article **«FAMILY LEGAL RELATIONS IN THE CONTEXT OF GENDER EQUALITY: LEGAL PROTECTION OF WOMEN AND MEN»**, O. Ivanii explores the evolution of family legal relations in the context of gender equality. The author emphasizes the need for a balanced legal approach that ensures the rights of both women and men and identifies potential avenues for legislative reform.

M.Sh.Adhim and A. Madjid, in their piece **«THE DYNAMICS OF JUDICIAL INDEPENDENCE IN CORRUPTION SENTENCING: BETWEEN JUDICIAL DISCRETION AND THE PRINCIPLE OF LEGAL CERTAINTY»**, address the complex interplay between judicial independence and legal certainty in adjudicating corruption cases. Their analysis considers how judicial discretion can align with societal expectations of fairness and consistency in anti-corruption efforts.

The article **«EFFECTIVENESS OF LAND REDISTRIBUTION POLICY IN AGRARIAN REFORM PROGRAM: IMPLEMENTATION ANALYSIS AND SOLUTIONS TO LAND REFORM LAND REGISTRATION OBSTACLES»** by D.S.S. Wijayanti, I. Koeswahyono, and

L.D. Andreassari focuses on the practical implementation of agrarian reform. The authors identify obstacles to land registration and offer concrete solutions, which may be relevant to other countries undergoing land reform processes.

Concluding this issue, the article by S. Larasati, I. Permadi, and Herlindah, **«EFFECTIVENESS OF SUPERVISION OF TRANSFER OF INFRASTRUCTURE, FACILITIES, AND PUBLIC UTILITIES (PSU) FUNCTIONS INTO COMMERCIAL BUILDINGS IN MALANG: A SOCIO-LEGAL APPROACH IN THE PERSPECTIVE OF GOOD GOVERNANCE»**, employs a socio-legal approach to assess oversight mechanisms concerning the conversion of public infrastructure into commercial use. The study emphasizes the need for transparency, accountability, and adherence to the principles of good governance.

Together, these contributions not only reflect the journal's commitment to scholarly rigor and cross-border legal inquiry, but also enrich the ongoing dialogue on justice, governance, and reform in an interconnected world. We trust that readers will find this issue intellectually stimulating and practically relevant.

This issue of Legal Horizons contributes meaningfully to the international legal discourse and invites readers to engage critically with the transformative processes shaping the effectiveness and fairness of legal systems.

Yurii Harust,
Editor-in-Chief
Legal Horizons

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Abstract

The rapid development of electric bicycles has created legal uncertainty in Indonesia due to the absence of specific regulations in Law No. 22/2009 on Road Traffic and Transportation (LLAJ Law). This research aims to analyze the legal status of electric bicycles in Indonesia's legal system, compare domestic regulations with the United States and the European Union, and propose a more comprehensive regulatory reformulation. This research uses a normative legal method with a statutory approach and comparative analysis to identify regulatory gaps. The results show that Indonesia does not yet have a specific classification for electric bicycles, which leads to non-uniformity in law enforcement and uncertainty for users. In contrast, the United States and the European Union have established classifications based on motor power and maximum speed, thus providing greater legal certainty and safety. This research proposes that Indonesia adopt a similar classification system by incorporating technical standards, safety requirements, and registration procedures into the Law on Motor Vehicles. This reformulation will provide legal certainty, improve driving safety, and support sustainable transportation policies.

Key words: Electric bicycle; legal certainty; road safety; regulatory reform; transportation law.

1. Introduction

In recent years, the use of electric bicycles in Indonesia has increased in line with technological developments and public awareness of more environmentally friendly transportation. However, until now, the legal status of electric bicycles is still in a gray area due to the absence of regulations that specifically regulate their classification in Law Number 22 of 2009 concerning Road Traffic and Transportation (LLAJ Law). Electric bicycle regulations in Indonesia are still limited to Minister of Transportation Regulation No. 45/2020, which does not comprehensively regulate safety aspects and the rights and obligations of its users (Puteri, 2024, p. 94). This lack of clarity has an impact on the implementation of policies that are less effective and cause differences in interpretation in various regions. From a legal perspective, this issue is important to study in order to identify regulatory gaps and legal implications, both for electric bicycle users and for law enforcement officials (Nugroho & Pujiyono, 2022, p. 49).

Several previous studies have highlighted the regulatory aspects of electric vehicles, including studies on the regulation of battery-based electric motorized vehicles (KBLBB). For example, research by Maramis (2024) discusses «law enforcement against the use of electric bicycles by minors and how this is still experiencing obstacles due to the lack of clear regulations» (Maramis, 2024, p. 3). On the other hand, a study by Lesmana and Fithry (2023) found that «existing regulations have not been able to provide optimal legal protection for electric bicycle users in traffic» (Lesmana & Fithry, 2023, p. 110). However, these studies are still partial and have not explored in depth the legal status of electric bicycles in the perspective of the national legal system and its regulatory implications. The gap found in previous studies is the lack of comprehensive analysis of comparative law at the national and international levels, as well as the absence of concrete proposals for regulatory reformulation that accommodate aspects of justice and legal certainty. Therefore, this research offers a new contribution by critically discussing the mismatch of current regulations and proposing a more holistic legal approach.

The importance of this research lies in the massive impact of the unclear regulation of electric bicycles, both in terms of traffic safety, public order, and legal certainty for users. In the context of *ius constituendum*, regulations on electric bicycles need serious attention to prevent legal imbalances that result in uncertainty in rule enforcement. Electric vehicles must reflect the principles of legal justice by paying attention to the balance between legal certainty and transportation technology innovation. In addition, the urgency of this research is also related to the development of electric vehicles as part of Indonesia's sustainable energy policy. Without clear regulations, the potential for conflict in the implementation of environmentally friendly transportation policies will be greater, so this research is expected to provide concrete recommendations for policy makers in drafting regulations that are more adaptive and responsive to developments in transportation technology (Subekti, 2022, p. 447).

The legal problem that is the main focus of this research stems from the unclear legal status of electric bicycles in the Indonesian legal system. Until now, there is no regulation that explicitly categorizes electric bicycles as motorized or non-motorized vehicles in Law No. 22/2009 concerning Road Traffic and Transportation. This has various legal implications, especially in terms of legal certainty and protection for electric bicycle users (Putri et al., 2024, p. 775). The mismatch of existing regulations also creates problems in applying the principle of justice, because there is no uniform legal standard in determining the rights and obligations of electric bicycle users on the road.

In the context of comparative law, the regulation of electric bicycles in Indonesia is still far behind some other countries, such as the United States and the European Union, which have specific classifications and rules related to the use of electric bicycles, both in terms of safety, registration, and speed limits (Peng et al., 2024, p. 122). Therefore, this research will also examine how the regulation of electric bicycles in other countries can provide an overview of best practices that can be adapted into the national legal system (Malloci, 2024). Ultimately, this research will attempt to formulate a more ideal and comprehensive regulatory reformulation to accommodate legal certainty for electric bicycle users in Indonesia and realize the principle of justice in their use on the road.

This research aims to provide an in-depth analysis of the legal status of electric bicycles in Indonesia's national legal system. By identifying various weaknesses in the current regulations, this research will explore the impact of regulatory imperfections on legal certainty and protection for electric bicycle users (Aqila Qirina, 2023, p. 101). In addition, this research will compare the regulation of electric bicycles in Indonesia with several other countries, such as the United States and the European Union, in order to find best practices that can be adapted to the national legal context (Pramudya, 2024, p. 2). The results of this analysis will later be used to develop recommendations for a more comprehensive legal policy reformulation, with the aim of creating a legal system that is clearer, fairer, and adaptive to the development of transportation technology in Indonesia

Based on the description above, this research has academic and practical urgency in overcoming the unclear regulation of electric bicycles in Indonesia. With the increasing use of electric bicycles in various cities, a clear legal basis is needed to ensure user safety, traffic order, and legal certainty for all stakeholders. The mismatch between existing regulations and the needs in the field raises the potential for wider legal problems, including imbalances in law enforcement and regulatory conflicts at the regional and national levels. Therefore, this research seeks to contribute to the development of legal policies that are more adaptive and responsive to the dynamics of modern transportation. By analyzing various aspects of regulation, both normatively and comparatively, this research is expected to provide concrete solutions in formulating policy reformulations that are more in line with the principles of justice and legal certainty in Indonesia.

2. Materials and Methods

This research uses normative legal research methods, which aim to review and analyze laws and regulations and legal concepts related to the regulation of electric bicycles in Indonesia. Normative legal research or doctrinal legal research is a research method that focuses on legal materials as the main source in analyzing legal issues (Efendi & Ibrahim, 2018, p. 129).

In this research, the approaches used are statute approach and comparative approach (Marzuki, 2005, p. 93). The statutory approach is used to examine how electric bicycle regulations are regulated in the national legal system, specifically in Law Number 22 of 2009 concerning Road Traffic and Transportation and Minister of Transportation Regulation Number 45 of 2020. Meanwhile, the comparative legal approach is carried out by examining electric bicycle regulations in other countries, such as the United States and the European Union, in order to obtain best practices that can be used as references in reformulating legal policies in Indonesia.

In analyzing electric bicycle regulations, this research refers to the Legal Certainty Theory proposed by Hans Kelsen. Legal certainty theory is used to assess whether current regulations have provided legal clarity for electric bicycle users and the extent to which regulatory discrepancies affect the application of law in the field. Kelsen stated

that legal norms must have clarity, consistency, and can be applied objectively so as not to cause uncertainty in application (Kelsen, 2002, p. 1). In the context of this research, the discrepancy between the LLAJ Law and Minister of Transportation Regulation 45/2020 is the object of analysis in assessing legal certainty for electric bicycle users in Indonesia.

In addition, this research is also based on the Legal Objective Theory proposed by Gustav Radbruch. This theory is used to measure the extent to which electric bicycle regulations fulfill three legal objectives, namely legal certainty, justice, and expediency (Radbruch, 1950, p. 109). In this study, the legal certainty aspect is analyzed based on the imperfections of the current regulations, while legal justice is studied in the context of protecting the rights of electric bicycle users. Meanwhile, legal expediency is studied by looking at the impact of regulations on user safety and the interests of sustainable transportation in Indonesia.

The data source used in this research is secondary data, which consists of primary legal materials, secondary legal materials, and tertiary legal materials (Muhaimin, 2020, p. 101).

1. Primary legal materials include legislation relating to the regulation of electric bicycles, such as:

- Law Number 22 Year 2009 on Road Traffic and Transportation.
- Minister of Transportation Regulation Number 45 of 2020 concerning Certain Vehicles Using Electric Motor Drives.
- DKI Jakarta Governor Regulation Number 36 of 2022 concerning the Use of Electric Bicycles on Roads.
- Yogyakarta Mayor Regulation Number 71 Year 2022 on the Use of Electric Bicycles.

2. Secondary legal materials include law books, scientific journals, and research articles relevant to the regulation of electric bicycles as well as the theories used in this research.

3. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other documents that support the understanding of legal concepts used in this research.

The analysis technique used in this research is qualitative descriptive analysis, namely by describing and analyzing existing regulations, comparing them with other countries' regulations, and evaluating regulatory discrepancies based on the legal theory used. Soerjono Soekanto and Sri Mamuji, stated that in normative legal research, qualitative descriptive analysis is carried out by explaining, interpreting, and evaluating existing legal rules in order to produce a more comprehensive solution (Soerjono Soekanto & Sri Mamudji, 2003, pp. 13–14).

The results of this research are expected to provide concrete recommendations in reformulating legal policies that are more adaptive and responsive to the development of transportation technology in Indonesia, so that the regulation of electric bicycles can be more in line with the principles of legal certainty, justice, and benefits for the community.

In legal research, the theoretical basis serves as a foothold for analyzing problems and building scientific arguments. The study of electric bicycle regulations in Indonesia can be studied through the perspective of Legal Certainty Theory and Legal Objective Theory. These two theories are relevant in discussing how the regulation of electric bicycles in Indonesia is still in a gray zone and how this regulation should be formulated so that it meets aspects of legal certainty, justice, and benefits for the community.

3. Result

3.1. Criteria for electric bicycles as motorized or non-motorized vehicles based on applicable regulations

In recent years, the increasing use of electric bicycles in Indonesia has raised various legal and policy issues, especially related to legal certainty, safety standards, and the application of different regulations in various regions. Electric bicycles offer a more environmentally friendly and efficient transportation solution, but still face a lack of clarity in national regulations. The absence of a clear legal definition of electric bicycles in Law No. 22/2009 on Road Traffic and Transportation (LLAJ Law) leads to imbalances in the application of the law. The Minister of Transportation Regulation No. 45/2020 does provide some guidelines related to technical specifications and requirements for the use of electric bicycles, but this regulation is still limited and not comprehensive enough to accommodate various aspects of safety and legal certainty for users. As a result, there are different interpretations in the implementation of the regulation at the regional level, which in turn creates uncertainty in law enforcement for officials and road users.

This research aims to examine the legal status of electric bicycles in the national legal system and compare it with regulations in other countries, such as the United States and the European Union. In addition, this research also analyzes the impact of unclear regulations on legal certainty and safety of electric bicycle users. By using a normative approach as well as legislative analysis and comparative law, this research will provide an overview of the weaknesses of the current regulations and propose a clearer and more comprehensive regulatory reformulation. In this discussion, the results of the research will be described systematically, starting from the analysis of regulations in Indonesia, comparison with other countries' regulations, the legal impact of unclear rules, to ideal policy recommendations for the reformulation of electric bicycle regulations in Indonesia.

The legislation in Indonesia that is the basis for the implementation of traffic and road transportation uses Law Number 22 of 2009 concerning Road Traffic and Transportation (LLAJ Law), where the regulation in the context of the classification of electric bicycles is still not clearly regulated. However, technically in Indonesia there is a Minister of Transportation Regulation Number 45 of 2020 concerning Certain Vehicles Using Electric Motor Drives, which is also a juridical basis for determining criteria related to electric bicycles in Indonesia.

Law No. 22/2009 on Road Traffic and Transportation (LLAJ Law) in this case does not specifically regulate electric bicycles, but references in the LLAJ Law can be a provision to understand the status of electric bicycles, which are currently very massive in use in Indonesia (Maramis, 2024, p. 3). As stated in Chapter VII regarding the types and functions of vehicles Article 47 paragraph (1) of the LLAJ Law, the article states that vehicles consist of Motorized vehicles and non-motorized vehicles (Indonesia, Pemerintah Pusat, 2009c). Article 1 point 8 of the LLAJ Law states the definition of a motorized vehicle itself as «a vehicle driven by mechanical equipment in the form of a machine other than a vehicle that runs on rails» (Indonesia, Pemerintah Pusat, 2009b).

Article 47 paragraph (2) of the LLAJ Law categorizes motor vehicles consisting of motorcycles, passenger cars, buses, freight cars, and special vehicles. So in the context of electric bicycles contained in the LLAJ Law, it is still not clearly regulated, resulting in electric bicycles at the statutory level being in a regulatory gray zone. Article 1 point 9 of the LLAJ Law states that non-motorized vehicles are driven by human and/or animal power. On the one hand, electric bicycles are powered by electric motors and rechargeable batteries, making them similar to motorized vehicles, but they are also equipped with pedals that can also be driven by human power.

Due to the lack of clarity in the LLAJ Law regarding the criteria for electric bicycles, the Ministry of Transportation issued Minister of Transportation Regulation Number 45 of 2020 concerning Certain Vehicles Using Electric Motor Drives. The existence of the Ministerial Regulation is an important step in regulating the use of electric vehicles in Indonesia, especially electric bicycles. This Ministerial Regulation was established to provide clear definitions and criteria for electric bicycles, as well as various aspects of road use and use in public areas. The definition of an electric bicycle is as stated in Article 1 point 7 of the Ministerial Regulation 45/2020 states that «an electric bicycle is a certain vehicle that has 2 (two) wheels equipped with mechanical equipment in the form of an electric motor» (Indonesia, Kementerian Perhubungan, 2020b).

The Ministerial Regulation 45/2020 categorizes electric bicycles as certain vehicles using an electric motor drive. The Ministerial Regulation also stipulates safety requirements, especially for electric bicycles, which include a headlight, reflector or light reflecting device at the rear position of the electric bicycle, an excellent brake system, a horn or bell, and a maximum speed limit of 25 km/h (twenty kilometers per hour) (Indonesia, Kementerian Perhubungan, 2020a). If examined based on the classification of vehicles, it can be said that electric bicycles are hybrid vehicles that combine energy from electricity and humans (Sujana, 2020). Legal certainty in determining whether electric bicycles can be included in motorized vehicles or non-motorized vehicles, will have legal implications for the legal rights and obligations for each vehicle (Puteri, 2024, pp. 95–97).

There is another definition as mentioned in Article 12 paragraph (1) letter b of Government Regulation Number 55 of 2012 concerning Vehicles, which also mentions the driving motor in motorized vehicles in the form of an electric motor (Indonesia, Pemerintah Pusat, 2012). According to the explanation of the Government Regulation, what is meant by «electric motor» is a drive that uses electricity as its driving force. The definition mentioned in the Government Regulation on Vehicles is one of the technical and roadworthy requirements for motorized vehicles. Therefore, to strengthen the narrative contained in this paper, the meaning or understanding of the engine contained in the conventional motor and the electric motor on the electric bicycle will be explained. Because in an effort to understand and analyze related to electric bicycles, it is necessary to provide an explanation to reinforce the criteria for electric bicycles included in motorized vehicles or non-motorized vehicles (Sударsono, 2020, p. 2).

The engine in a conventional motorcycle and the electric motor found in an electric bicycle have fundamental differences based on how they work and their main components. Conventional motors use internal combustion engines, which operate by burning fossil fuels such as gasoline or diesel. This combustion process produces heat energy which is then converted into mechanical energy to drive the vehicle. The main components of a conventional engine include the piston, cylinder, spark plug, carburetor or fuel injection system, and exhaust system. An electric bicycle uses an electric motor as its driving force, the way an electric motor works is to convert electrical energy into mechanical energy to turn the wheels (Santoso, 2022, p. 37).

Electric vehicles in the context of electric bicycles developed for use in Indonesia itself are Battery-Based Electric Motor Vehicles (KBLBB) or Battery Electric Vehicles (Indonesia, Pemerintah Pusat, 2019). KBLBB is a type of electric vehicle that uses battery technology as a source of electricity to drive motors contained in certain vehicles, one of which is an electric bicycle. KBLBB does not have an internal combustion engine, fuel cell, or fuel tank, so the source that produces energy to be able to drive an electric bicycle is a battery. Therefore, batteries have an important role like fuel in conventional vehicles, technically how KBLBB works in this case is an electric bicycle in simple terms is as follows (Omazaki Group, 2019):

- a. Power is converted from DC (Direct Current) to AC (Alternating Current) batteries

to activate the motor;

- b. The accelerator sends a signal to the control module to adjust the vehicle speed by changing the power frequency from the AC to the motor;
- c. The motor connects and rotates the wheels through gears;
- d. When the brakes are pressed or the electric bike slows down, the motor becomes a generator and produces electricity which is stored back into the battery;

Then based on the criteria for electric bicycles in the LLAJ Law and Permenhub 45 of 2020 that electric bicycles should be categorized as non-motorized vehicles, but in this case electric bicycles have their own category, namely «certain vehicles using electric motor drives. There are similarities between the definitions contained in the LLAJ Law and Permenhub 45 of 2020, namely the definition of Motorized Vehicles in Article 1 number 8 states that motorized vehicles are driven by mechanical equipment in the form of «engines». Meanwhile, Article 1 point 7 of Permenhub 45/2020 states that electric bicycles are also equipped with mechanical equipment in the form of «electric motors». Therefore, the similarities between Motor Vehicles in the LLAJ Law and electric bicycles in Permenhub 45 of 2020 are both driven by mechanical equipment. However, the fundamental difference is the mechanical equipment in the form of an engine in the LLAJ Law and the mechanical equipment in the form of an electric motor in Permenhub 45/2020.

3.2. Implementation of Complete Systematic Land Registration (PTSL) fee determination at the village level

TIn recent years, electric bicycles have become one of the increasingly popular transportation alternatives in various parts of the world, including Indonesia.⁸⁶ However, although electric bicycles and electric motorcycles both use electric power as a source of propulsion, they have significant fundamental differences, both from a technical and legal perspective. an understanding of these differences is very important in the context of reformulating legal arrangements relating to the use of electric bicycles in road traffic and transportation.

One of the innovations in transportation modes, namely electric bicycles, basically does not have too significant a difference with bicycles in general. In Indonesia itself, there are two types of electric bicycles and electric motorbikes, in the use in society today is very massive. However, juridically related to the understanding of the electric motorcycle itself has not been regulated, both in Law Number 22 of 2009 concerning Road Traffic and Transportation and in Regulation of the Minister of Transportation Number 45 of 2020 concerning Certain Vehicles Using Electric Motor Drives.

Before moving on to the condition of electric bicycles from a technical perspective, it is necessary to know in advance juridically related to the meaning or understanding of motorized vehicles, non-motorized vehicles, electric bicycles, and electric motorbikes, in this case the author will describe it in tabular form as follows Table 1.

Table 1. Juridical definition of vehicle

No	Vehicle Type	Definition
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1	Motorized Vehicle	The definition of a motorized vehicle is «any vehicle that is driven by mechanical equipment in the form of a machine other than vehicles that run on rails». Motorized vehicles themselves are mentioned in Article 47 paragraph (2) of the LLAJ Law, consisting of motorcycles, passenger cars, buses, goods cars, and special vehicles.
2	Non-motorized Vehicles	Article 1 point 9 of Law No. 22/2009 on Road Traffic and Transportation states that the definition of non-motorized vehicle is «any vehicle propelled by human and/or animal power». Non-motorized vehicles themselves are mentioned in Article 47 paragraph (4) of the LLAJ Law, consisting of vehicles driven by human power, and vehicles driven by animal power.
3	Electric Bike	Article 1 point 7 of the Minister of Transportation Regulation Number 45 of 2020 concerning Certain Vehicles Using Electric Motor Drives, states that the definition of an electric bicycle is «a certain vehicle that has 2 (two) wheels equipped with mechanical equipment in the form of an electric motor».

Physically, electric bicycles and electric motorcycles are two types of vehicles that are both based on electric power. However, there are things that distinguish between the two electric vehicles, the author will try to provide an image as an example Table 2.

Table 2. Electric bicycles and electric motorcycles

Image	Description
	The following picture is an electric bicycle, where characteristically an electric bicycle or e-bike is a bicycle equipped with an electric motor as a driving tool and pedals as a pedaling tool for its users (Chisholm & Healy, 2018, p. 128).
	The following picture is an electric motorcycle, characteristically different from an electric bicycle. Where the electric motorcycle is fully driven by an electric motor without requiring pedaling as an additional drive (Chisholm & Healy, 2018, p. 129).

The next thing that makes a difference regarding electric bikes and electric motorcycles is that, for the use of electric motorcycles themselves in Indonesia, there is a legal basis for the use of driving licenses (SIM) that apply to electric motorcycle users. As contained in the Regulation of the Indonesian National Police Number 5 of 2021

concerning the Issuance and Marking of Driver's License. As mentioned in CHAPTER II regarding the issuance of SIM, namely in Article 3 paragraph (2) letter h states that:

«C I driver's license, valid for driving a motor vehicle of motorcycle type with engine cylinder capacity above 250cc (two hundred and fifty centimeters cubic) up to 500cc (five hundred centimeters cubic) or similar motorcycle that uses electricity.»

Then in Article 3 paragraph (2) letter l, it states as follows:

«SIM C II, valid for driving a motorcycle with an engine cylinder capacity above 500cc (five hundred centimeters cubic) or similar motorcycle that uses electric power.»

This means that riders who use electric motorcycles must have at least a C I driver's license to be able to drive and use them on the road. Making a C I driver's license is required to have a C first for 12 months since it was issued. This requirement also applies if you want to upgrade from SIM C I to C II. So, if seen in the context of electric bicycles, then the electric bicycle itself should be included in the category of motorized vehicles, because if viewed juridically in the LLAJ Law, electric bicycles themselves do not have the right position. However, when viewed technically, electric bicycles have two similarities, namely they are both driven by «mechanical equipment» but use electricity as a driving force.

3.3. Electric bike criteria based on transportation theory

People in ancient times used transportation tools that were said to be very simple when machines were still not invented, transportation tools such as pedates, delmans, and horses were the means of transportation used for daily community activities. Given the technology of transportation using human and animal power, in terms of cruising ability is still very limited and requires a long period of travel. Since the invention of the steam engine, other motorized vehicles have also developed. Motorized transportation such as motorcycles, cars, and trains are modern means of transportation. The existence of these means of transportation, long distances can be reached in a short time, in addition to transporting goods, can also facilitate humans who have high mobility and provide comfort in travel.

Electric bicycles in the context of transportation theory, especially in transportation law, are a relatively new phenomenon and raise various questions related to the classification and regulations governing electric bicycles. Therefore, with the aim of comprehensively understanding the criteria for electric bicycles, this paper will be analyzed from the perspective of Transportation Theory. First, starting from the definition and characteristics of an electric bicycle, also known as an e-bike, which is a bicycle equipped with an electric motor as a means of propulsion. As explained above about the difference with electric motorcycles, electric bicycles themselves still have pedals that can be used to move them. The main characteristics of an electric bicycle are having an electric motor with a power between 250 watts and 750 watts, a rechargeable battery as an energy source, and a maximum speed of 25 km/h, if referring to Article 3 paragraph (2) of the Minister of Transportation Regulation Number 45 of 2020 concerning Certain Vehicles Using Electric Motor Drives (Santoso, 2022, p. 69).

Then in the transportation system, vehicles in General Electric bicycles are classified based on several criteria such as the source of propulsion, number of wheels, carrying capacity, and function and intended use. Based on the context of electric bicycles, this poses a challenge in their classification due to their unique characteristics. On the one hand, an electric bicycle has a motor and battery like a motorized vehicle, but on the other hand it still has a pedal and can be operated without electric assistance like a conventional bicycle. Based on this, with regard to criteria based on transportation safety contained in Transportation Theory, in this case the author emphasizes the opinion conveyed by Ahmad Munawar, that safety contained in transportation theory

emphasizes the importance of vehicle and infrastructure design that minimizes the risk of accidents. If drawn juridically, Article 3 paragraph (2) of the Minister of Transportation Regulation Number 45 of 2020 has accommodated several safety aspects, especially for electric bicycles, by requiring them to meet safety requirements such as headlights, reflectors, a functioning brake system, and maximum speed restrictions.

Then the benefits of electric bicycles as a role of transportation as conveyed by Fidel Miro are classified based on the field of human civilization, in the economic field, and in the legal field. If electric bicycles are drawn based on the development of human civilization, then the development of technology can support the interests of the need for adequate, efficient, and easy-to-use transportation.⁹⁵ Then in the economic field, of course, electric bicycles present benefits in terms of moving people from one place to another, in this case of course aiming to provide convenience and equality for goods and services so that the entire region can be guaranteed. Next in the social field, from the convenience offered from electric bicycles, it offers conveniences such as official inter-institutional relationship activities or relationships of a nature such as visiting relatives (Bjerkman et al., 2021, p. 102).

Then if analyzed from the legal field related to the existence of electric bicycles, the importance of regulations governing between transportation users and the government, especially in this case is a regulation that includes safety, the obligation to use electric bicycles on the road, and special lanes that can be passed by electric bicycle users. Based on this, with the development of technology in the transportation sector, in Indonesia, which regulates the use of electric bicycles, currently there is a Regulation of the Minister of Transportation Number 45 of 2020 concerning Certain Vehicles Using Electric Motor Drives. Where regulations at the level of Law Number 22 of 2009 concerning Road Traffic and Transportation should be updated to support an important role in encouraging transportation development.

The characteristics of electric bicycles in terms of Transportation Theory cover various aspects, from technical characteristics to legal implications. So, it can be concluded that in the characteristics of electric bicycles when analyzed from transportation theory, a comprehensive approach is needed to regulate the use of electric bicycles. Existing regulations such as the Minister of Transportation Regulation Number 45 of 2020 concerning Certain Vehicles Using Electric Motor Drives, have become an initial foundation, but still require further development to accommodate the complexity of electric bicycles in road traffic and transportation. By understanding the criteria for electric bicycles based on Transportation Theory, policymakers can formulate a more comprehensive regulation on the use of electric bicycles in road traffic and transportation. This will ensure that the use of electric bicycles can provide optimal benefits, especially for the community while maintaining traffic safety and order.

The development of technology and information that is increasingly developing in the era of globalization, requires accessibility to technology and information that is broad and evenly distributed, especially in the world of transportation. This is a consequence of the increasing need for access to technological and information developments, by almost every level of society with all backgrounds (Nurdiani, 2017, p. 73). In addition, the existence of electric bicycles must also consider accessibility. The meaning of accessibility is, facilities provided for everyone with the aim of realizing equality and opportunity in all aspects of life. Of course, accessibility itself is not only from one side, namely electric bicycles, but must also include accessibility to infrastructure within the scope of traffic and road transportation. There are 2 (two) types of accessibility, namely, physical and non-physical. Physical accessibility is related to building and environmental infrastructure, in the context of the development and use of electric bicycles, of course, road conditions for both conventional motor vehicle users and electric bicycles must be separated or emphasized lanes that can be passed. Then non-physical accessibility is

related to developing technology, such as the existence of electric bicycles themselves. Of course, the fulfillment of accessibility is the basis of everyone who is built with the aim of creating fair services for all levels of society (Nur et al., 2021, p. 23).

3.4. Analysis of factors affecting the classification of electric bicycles

The classification of electric bicycles as motorized or non-motorized vehicles is not a simple decision. There are various complex factors that interact with each other and influence how electric bicycles should be categorized and regulated in legislation. These factors can be grouped into 3 (three) main categories, namely technical factors, usage factors, and legal and regulatory factors. Analyzing these factors in depth is essential for formulating appropriate regulations, especially for regulating the use of electric bicycles in Indonesia.

Aspects of technical factors in electric bicycles play a central role in determining their classification. Characteristics such as electric motor power, maximum speed, and additional features greatly influence how an electric bicycle can operate and how it should be required in legislation. First there is electric power, which is the most important technical factor affecting the classification of electric bicycles. Electric motor power determines how much assistance the motor provides to the rider, an electric bike with low motor power provides little assistance when pedaling, while an electric bike with higher motor power can provide significant assistance, or even move the bike completely without the need for pedaling.

In many countries, electric motor power limits are used as a key criterion to distinguish electric bicycles from other electric motorcycles or motorized vehicles. One example is in Europe, electric bicycles are generally limited to 250 watts of motor power. Bicycles with motor power above this limit are classified as motorcycles and are subject to stricter regulations, including driver's license, registration, and insurance requirements. In Indonesia, the Minister of Transportation Regulation No. 45/2020 on Certain Vehicles Using Electric Motor Drives, does not set a limit on electric motor power for electric bicycles. This creates ambiguity and potential problems. Electric bicycles with very high motor power can be sold and used without adequate regulation, potentially jeopardizing the safety of electric bicycle users and other road users.

Therefore, it is important to set clear power limits for electric motors, especially for the use of electric bicycles in Indonesia. These limits should consider several factors such as safety standards, as well as supervision and enforcement to ensure that electric bicycles sold and used comply with the set power limits. In addition to the power of the electric motor in an electric bicycle, maximum speed is also an important technical factor affecting the classification of an electric bicycle. The maximum speed in an electric bicycle determines how fast the bicycle can go with the help of an electric motor, an electric bicycle with a high maximum speed can reach speeds similar to a motorcycle, potentially increasing the risk of accidents and endangering the safety of other road users, considering that the electric bicycle itself does not make noise like a conventional motor in general.

The Minister of Transportation Regulation No. 45/2020 has set the maximum speed limit for electric bicycles at 25 km/h, which is in line with international standards in many countries. However, in order for the speed limit on the use of electric bicycles in Indonesia to run regularly, strong supervision and law enforcement are also needed. There needs to be a sustained education and socialization campaign to raise public awareness of the maximum speed limits of electric bicycle use, and the risks associated with violations. Strict enforcement of speed violations is also needed, to provide a deterrent effect and ensure the safety of all road users.

The rapid development of transportation technology has encouraged the

emergence of electric bicycles as an alternative environmentally friendly vehicle. However, in Indonesia, the lack of clarity in the regulation of electric bicycles has caused various legal problems, both in terms of legal certainty, rule enforcement, and protection of road users. Electric bicycles are currently in a gray area in the national legal system because they are not explicitly categorized as motorized or non-motorized vehicles in Law No. 22/2009 on Road Traffic and Transportation (LLAJ Law). As a result, law enforcement officials have difficulty in determining the standard of application of the rules, while electric bicycle users have no clear guidelines regarding their rights and obligations on the road. This uncertainty has the potential to lead to unfairness in the application of the law, especially in cases of traffic violations or accidents involving electric bicycles.

On the other hand, differences in regulations at the regional level further exacerbate inconsistencies in the application of laws regarding electric bicycles. Some regions have enacted local regulations that require electric bicycles to follow the same requirements as motor vehicles, while other regions still treat them like conventional bicycles. This imbalance risks creating conflicts between electric bike users, law enforcement officials, and policy makers. In addition, without clear rules regarding technical requirements, such as speed limits, electric motor specifications, and safety standards, the use of electric bicycles may increase the risk of road accidents. Therefore, a more comprehensive reformulation of legal policies is needed to provide legal certainty, ensure user safety, and create uniformity in the application of rules related to electric bicycles in Indonesia.

3.5. An overview of the vagueness of electric bicycle regulations in the Indonesian regulations

Electric bicycles as part of transportation infrastructure have a strategic role, especially in the development of social and economic activities and various uses for the prosperity of society (Mustakim, 2019, p. 158). The purpose of regulating electric bicycles in Indonesia is to realize justice for all vehicle users and road users, so that security, safety, order, and smoothness of traffic and road transportation can be realized (Indonesia, Pemerintah Pusat, 2009a). In addition, in terms of realizing the mandate of Article 28 D of the 1945 Constitution of the Republic of Indonesia, it states that «everyone has the right to recognition, guarantees, protection and certainty of a fair law and equal treatment before the law».

However, in the context of regulating electric bicycles in Indonesia itself, there is a lack of clarity in the regulation, which has various legal implications that can be said to be very significant. Although currently in force Regulation of the Minister of Transportation Number 45 of 2020 concerning Certain Vehicles Using Electric Motor Drives, there are still several aspects that have not been comprehensively regulated, one example is related to the use of electric bicycles on the highway, resulting in the emergence of juridical consequences arising and needing attention.

One very visible legal implication is the legal uncertainty for electric bicycle users, as mentioned in Chapter A in the previous discussion of this thesis, that Law Number 22 of 2009 concerning Road Traffic and Transportation (LLAJ Law) and Minister of Transportation Regulation Number 45 of 2020 concerning Certain Vehicles Using Electric Motor Drives (Permenhub 45 of 2020) do not specifically regulate electric bicycles. Meanwhile, Permenhub 45/2020 only regulates the use of electric bicycles in certain areas and lanes, so the unclear regulations can endanger the safety of electric bicycle users and other road users.

There is ambiguity in the regulation of electric bicycles, such as whether they are motorized or non-motorized vehicles. This has implications for the requirements that must be met by electric bicycle users, such as the obligation to have a driver's license (SIM), vehicle registration, and compliance with motor safety standards. The impact of the lack of clarity regarding the regulation of electric bicycles also causes confusion

regarding law enforcement, especially in taking action by the police apparatus. On the one hand, the police are responsible for traffic safety, but on the other hand, there is no clear legal basis to take action against electric bicycle users who violate the rules (Faruq & Ubaidillah, 2024, pp. 4–5).

When referring to the opinion mentioned by Hans Nawiasky regarding the Theory of Formation of Legislation, there are formal gesets or laws, in the context of this writing is Law Number 22 of 2009 concerning Road Traffic and Transportation, as well as *Verordnungen* or autonomous *Satzungen* or implementing rules and autonomous rules which are implementing rules and regulations that are under the law and act as implementing provisions in the law. Law No. 12/2011 on the Formation of Legislation on the principle of clarity of purpose emphasizes the importance of clarity of formulation in the formation of legislation

Regulations regarding the use of electric bicycles are currently regulated more in Ministerial Regulations, while the LLAJ Law as a higher regulatory hierarchy above ministerial regulations, in this case does not provide clear arrangements. Of course, this has legal implications in the form of inconsistencies in the hierarchy of laws and regulations, if it is seen that the LLAJ Law is included in the type and hierarchy of laws and regulations as stated in Article 7 paragraph (1) letter c of Law Number 12/2011 concerning the Formation of Laws and Regulations, while Ministerial Regulations are included in the type of laws and regulations other than those referred to in Article 7 paragraph (1), namely in Article 8 paragraph (1) of Law Number 12/2011 (Indonesia, Pemerintah Pusat, 2011).

Then the legal implications that occur next are not harmonious between the position of Law Number 22 of 2009 concerning Road Traffic and Transportation, with Regional Regulations. Currently in Indonesia there are several regions that have regulated the use of electric bicycles.

From several regions that already have legal products and regulate the use of electric bicycles, several points of analysis related to the Theory of Legislation Formation such as the Hierarchy of Legislation. Regional legal products that regulate the use of electric bicycles must actually be in accordance with the hierarchy of laws and regulations. Hans Nawiasky in his theory, states that Regional Regulations are at the *Verordnung* or *Autonome Satzung* level, in this case it must be in harmony with the regulations above.¹⁰⁸ So in this case, regional regulations that are at *Verordnung* or *Autonome Satzung*, their position is very important in regulating matters that are local and specific. Especially in the context of regulating the use of electric bicycles, regional regulations can regulate aspects such as use zones in certain areas, and special roads that can be used by electric bicycles. Therefore, the author will try to describe in tabular form the contents of regional legal products that have regulated the use of electric bicycles as Table 3.

Table 3. Local law products that regulate electric bicycles

No.	Rule Name	Regulated Matters
1	Governor Regulation of the Special Capital Region of Jakarta Province Number 128 of 2019 concerning Provision of Bicycle Lanes	Article 2 paragraph (1) states that bicycle lanes are reserved for bicycles and electric bicycles.

2	Governor Regulation of the Special Capital Region of Jakarta Province Number 36 of 2022 concerning the Implementation of Bicycle Rental Integrated Mass Public Transportation	Article 4 paragraph (1) regulates the types of bicycle rental facilities, consisting of bicycles and electric bicycles. Article 5 paragraph (2) regulates the Technical Specifications of safety requirements on electric bicycles.
3	Yogyakarta Mayor Regulation Number 71 Year 2022 on the Use of Certain Vehicles Using Electric Motor Drives	Article 2 of this Mayor's Regulation states the scope, including use, requirements, and guidance and supervision
4	Banjarasin Mayor Regulation Number 113 of 2022 concerning Certain Vehicle Areas Using Electric Motor Drives in Banjarasin City	The things regulated in this Mayor's Regulation include, types of vehicles, operating areas, safety requirements, rules for people / entities that rent out electric bicycles, as well as supervision and control.
5	Bantul Regent Regulation Number 37 of 2022 concerning the Use of Certain Vehicles Using Electric Motor Drives	The things regulated in this Regent Regulation include, the type of certain electric motor-driven vehicles, one of which is an electric bicycle, then the safety requirements for electric bicycle users, and the determination of areas that are allowed to use electric bicycles.

Based on the table presented, several regions in Indonesia already have regional legal products that regulate the use of electric bicycles. This can show that there are efforts by local governments to regulate and order the use of electric bicycles in their respective regions, this phenomenon can again be related to the Theory of Legislation Formation, especially the theory put forward by Hans Nawiasky and A. Hamid Attamimi. If based on the context of regulating electric bicycles, regional legal products such as Governor Regulations, Mayor Regulations, and Regent Regulations, in the Hierarchy of Legislation in Indonesia are included in the *verordnung en autonome satzung* group according to Hans Nawiasky and A. Hamid Attamimi, in this case covering from Government Regulations to Regent or Mayor Decrees.

However, legal products made as a form of further elaboration of the Minister of Transportation Regulation Number 45 of 2020 concerning Certain Vehicles Using Electric Motor Drives, have significant legal implications related to legal certainty. With the existence of regional regulations that specifically regulate the use of electric bicycles, in this case electric bicycle users can have legal certainty regarding their rights and obligations when using electric bicycles in areas that already have legal products and regulate the use of electric bicycles. Then related to law enforcement, with the existence of regional regulations governing the use of electric bicycles, it can facilitate law enforcement officials in monitoring and prosecuting violations of the use of electric bicycles.

Based on this, it should be noted that although some regions have legal products that regulate the use of electric bicycles, there are still several other regions that do not have similar legal products. This can lead to non-uniformity in handling and regulating the use of electric bicycles in Indonesia. In addition, although regional legal products that regulate the use of electric bicycles provide legal certainty in areas that have regulated the use of electric bicycles, there is still a lack of clarity in Law Number 22 of 2009 concerning Road Traffic and Transportation. Because the LLAJ Law itself still does

not specifically regulate the criteria or use of electric bicycles, of course this can cause confusion in the application of the law, especially when problems occur in the form of violations that occur on the highway.

To overcome this, it is necessary to harmonize and synchronize laws and regulations vertically and horizontally. Vertically, there needs to be a stronger legal umbrella at the national level, for example through revising the Road Traffic and Transportation Law or making a special law on electric vehicles. Horizontally, there needs to be coordination between regions to ensure there are no contradictions in regulating electric bicycles, especially for regions with direct borders. Harmonization and synchronization in the context of the Theory of Legislation Formation by Hans Nawiasky and A. Hamid Attamimi, that this is an important stage to ensure that regional legal products remain in harmony with higher regulations and do not cause norm conflicts, also in accordance with Article 7 of Law Number 12 of 2011 concerning the Formation of Legislation regarding the Hierarchy of Legislation (Winata & Musais, 2021, p. 27).

The legal implications related to the regulation of electric bicycles in Indonesia, in this case related to the Theory of Legal Objectives as proposed by Gustav Radbruch, can be analyzed through 3 (three) main aspects, namely Justice, Benefit, and Legal Certainty. Referring to Gustav's opinion related to justice, that the principle of justice at least needs to be prioritized if positive law is contrary to the values of justice, and the value of justice is the material that must be the content of a rule of law (Bernard L. Tanya et al., 2019, p. 117). So, in the context of the regulation of electric bicycles, aspects of justice in regulating electric bicycles such as the provision of special lanes and certain areas for the use of electric bicycles. Of course, this creates justice for electric bicycle users by providing equal space on the road, with the aim of realizing the balance of rights between electric bicycle users and other road users. Regarding the provision of special lanes, it has been regulated in Article 5 paragraph (1) of the Minister of Transportation Regulation Number 45 of 2020 concerning Certain Vehicles Using Electric Motor Drives, further regarding certain areas mentioned in Article 5 paragraph (3) of the Minister of Transportation Regulation includes settlements, car free day, tourist areas, areas around mass public transportation facilities, office areas, and off-road areas. This has also been regulated in several regions that have legal products, especially those that regulate the use of electric bicycles. One example is in the Determination of Areas in Article 12 of Regent Regulation Number 37 of 2022 concerning the Use of Certain Vehicles Using Electric Motor Drives, where regulated electric bicycle operating areas can create a balance between the rights of users of electric bicycles and other road users.

Based on the aspect of expediency, which is part of regulating electric bicycles and also part of Gustav Radbruch's Legal Objective Theory, is an increase in accessibility. Clear regulation of the use of electric bicycles can increase transportation accessibility in various levels of society, including providing benefits for law enforcement in the sense that it can provide legal certainty for the control and supervision of the use of electric bicycles. Then if analyzed based on the aspect of legal certainty in regulating electric bicycles, the regulations from each region provide a class definition regarding the use of electric bicycles and their classification as certain vehicles using electric motor drives. The legal implication is the creation of clarity on the legal status of electric bicycles which facilitates the application and enforcement of the law.

The lack of clarity in regulations regarding the use of electric bicycles on the road poses various legal challenges that result in a lack of uniformity at the regional level. Although some regions have issued regulations that refer to Gustav Radbruch's Purpose of Law, differences in regulation between regions can create legal uncertainty and potential conflicts in implementing the rules (Cahyandari & Hadiyantina, 2022, p. 66). This is even more complex when one region has clear regulations related to electric bicycles, while other regions still do not regulate them. This difference not only makes

it difficult for electric bicycle users to understand their rights and obligations, but also creates obstacles for officials to enforce the law uniformly.

In addition, the rapid development of electric bicycle technology also poses challenges for the existing regulations. Without sufficient legal flexibility, existing regulations can quickly become outdated and unable to optimally accommodate technological innovation. The absence of a national-level legal umbrella in Law No. 22/2009 on Road Traffic and Transportation (LLAJ Law) has led to various legal interpretations regarding the status of electric bicycles in Indonesia (Cahyandari & Hadiyantina, 2022, p. 103). Therefore, education on electric bicycle regulations must be improved, not only for the user community but also for law enforcement officials. Alignment between various regulations, such as Minister of Transportation Regulations, Regional Regulations, and other technical rules, is needed so that electric bicycles can be used safely and lawfully. In this case, a monitoring and evaluation system must be implemented on an ongoing basis to ensure that regulations remain relevant to technological developments and community needs.

In the perspective of J.B.J.M. Ten Berge, as cited by Ridwan HR, law enforcement is not only the responsibility of the legal apparatus, but also of every individual in society (Ridwan, 2006, p. 307). This is in line with the provisions in the LLAJ Law Article 219 paragraph (1) which regulates the development of transportation industry and technology, including safety aspects, vehicle registration, and supporting facilities for law enforcement. Therefore, in the face of the surge in the use of electric bicycles, the law enforcement system must be strengthened to ensure compliance with applicable legal norms, both formally and materially.

In line with Jimly Asshiddiqie's view, law enforcement must ensure that legal norms are not only written in regulations but also effective in implementation in society (Muiz, no year). Therefore, coordination between the community, local government, and law enforcement officials is very important in ensuring that the use of electric bicycles can run in an orderly and safe manner. Thus, the reformulation of electric bicycle regulations must be carried out thoroughly by considering the harmonization of rules at the national and regional levels, and ensuring that the regulations implemented can provide legal certainty for all parties involved.

To overcome the challenges in terms of law enforcement, there are law enforcement strategies that can be offered as follows:

1. Regulatory clarity, a step in improving law enforcement through reformulation of the LLAJ Law and Minister of Transportation Regulation No. 45/2020 to clarify the definition of electric bicycles. Regulations governing electric bicycles must also set clear requirements in the form of limits on electric motor power, maximum speed, and safety requirements for the use of electric bicycles.

2. Increasing the capacity of law enforcement, if referring to Article 219 paragraph (1) letter g of the LLAJ Law, the government must increase the capacity of law enforcement with the aim of enforcing electric bicycle regulations to run optimally. Of course, the government needs to provide facilities in the form of necessary equipment such as speed meters and electric motor power testers.

3. Education and socialization campaigns, in order to create a Culture of Safety and Security of Traffic and Road Transport referring to Article 208 of the LLAJ Law, a continuous education and socialization campaign to increase public awareness of electric bicycle regulations must be evenly distributed to all elements of society, both from various ages and backgrounds and with language that is easy to understand.

4. Cooperation between Traffic Supervisors, in order to carry out maximum law enforcement, it requires cooperation between traffic and road transportation supervisors and the community, of course this is also a mandate from Article 200 paragraph (2) of

the LLAJ Law.

5. Fair law enforcement, law enforcement must be carried out in a fair and non-discriminatory manner, in the context of using electric bicycles, if there are violators, they must explain the violations committed.

6. Effective sanctions are needed to provide a deterrent effect and prevent repeated violations. Sanctions must be commensurate with the offense committed, and consistently enforced.

In the long term, enforcement of violations of electric bicycle use should be part of a broader traffic safety culture. All levels of society must work together to instill traffic safety values. In order to create a strong traffic safety culture, and to reduce the number of crashes and injuries related to the use of electric bicycles, and improve the overall quality of life of the community.

Of course, in the context of this writing, it cannot be separated from the Theory of Legal Objectives put forward by Gustav Radbruch which includes Justice, Benefit, and Legal Certainty. If by considering the principles of justice, usefulness, and legal certainty in the formulation and enforcement of laws against the use of electric bicycles, Indonesia can create a safer, more efficient, and fair transportation system for all road users. The application of Gustav Radbruch's Legal Objective Theory itself certainly reflects fundamental values in society.

In principle, the law was created to provide trust to the community in regulating different interests in order to achieve prosperity. In this context, the community as a legal subject has an important role in creating justice, benefit and legal certainty (Sagama, 2016, p. 24). Legal certainty includes the protection of individuals from government arbitrariness with the existence of general rules, so that people know their rights and obligations (Syahrani, 1999, p. 24). In this case, the law not only functions as a tool to achieve justice or benefit, but also ensures legal certainty with general and objective regulations.

Reformulation of legal arrangements is a necessary step in responding to social change, technology, and community needs. This reformulation aims to synchronize various existing regulations, especially regarding the regulation of electric bicycles. If associated with Gustav Radbruch's Theory of Legal Objectives, legal reformulation of electric bicycles must fulfill three main requirements (Rahardjo, 2000, p. 208):

1. Covers all relevant aspects of positive law, so that it reflects an element of fairness for electric cyclists, other road users, and law enforcement.

2. It should not contain logical contradictions, which means that regulations should not only highlight the negative impacts of electric bicycles but should consider the development of technology and its benefits to society.

3. Have clarity and simplicity in implementation, so as not to cause confusion among users and policy makers.

A scientific review of the regulation of electric bicycles shows that reformulation of the rules in the LLAJ Law is necessary in order to ensure justice and legal certainty. In this case, the law must reflect norms that are oriented towards justice and can function effectively in society. Transportation, as an important aspect of social and economic life, requires clear and comprehensive regulations to create a safe and orderly traffic system (Marye Agung Kusmagi, 2010, p. 40). Therefore, the regulation of electric bicycles needs to be harmonized with broader national rules to avoid conflicts with higher laws.

In practice, the LLAJ Law is still unable to accommodate rapid developments in the world of transportation, including the use of electric bicycles. With the rapid advancement of technology, existing regulations often lag behind the needs of society (Moh. Fadli & Syofyan Hadi, 2023, p. 35). For this reason, reformulation of the LLAJ Law is needed so that the applicable regulations can remain relevant and adaptive to the

times.

In addition, Presidential Regulation No. 55/2019 on the Acceleration of the Battery-Based Electric Motor Vehicle Program has provided support for the development of the electric vehicle industry, including electric bicycles. However, this regulation still focuses more on the industrial aspect, while the legal aspects regarding their use on the highway have not been specifically regulated (Masyarakat Transportasi Indonesia, 2024, p. 16). Therefore, the substance of regulating electric bicycles should be included in the LLAJ Law to provide stronger legal certainty for users and law enforcement.

Currently, the LLAJ Law has been included in the National Legislation Program (Prolegnas) as part of the priority legislative agenda. However, in the revision discourse, there is no indication that regulating electric bicycles is one of the main focuses. This issue is often sidelined by other issues that dominate legislative discussions (Badan Pembinaan Hukum Nasional, 2022). Therefore, a comparison with regulations in other countries, such as the United States and the European Union, is needed to gain a broader perspective on the reformulation of electric bicycle regulations (Chisholm & Healy, 2018, p. 97).

Legal reformulation of electric bicycles in the LLAJ Law must be carried out comprehensively to create regulations that are in line with technological developments, provide legal certainty for users, and ensure justice in their implementation. In addition, alignment with national and international regulations will provide a stronger legal framework for regulating the use of electric bicycles in Indonesia.

The United States has a long history of cycling culture that has evolved from a means of transportation to a way of life. The concept of Bicycle Urbanism, adapted from Rachel Berney's book, encourages the creation of safe and friendly infrastructure for cyclists. Along with technological developments, the United States developed Ebike Laws in 2023 to regulate the use of electric bicycles. Under the US Consumer Product Safety Act, an electric bicycle is defined as a low-speed vehicle with fully operated pedals, under 750 watts of power, and a maximum speed of 32 km/h. Electric bicycles that meet these standards are regulated like regular bicycles, including the durability of the frame, tires, brakes, and electrical system.

Despite federal regulations on electric bicycles, there are currently 39 states in the United States (Arkansas, Arizona, Alabama, Colorado, California, Connecticut, Delaware, Georgia, Florida, Idaho, Indiana, Illinois, Iowa, Louisiana, Kansas, Maine, Michigan, Maryland, Minnesota, Mississippi, Missouri, Nevada, Nebraska, New Jersey, New Hampshire, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Utah, Texas, Vermont, Virginia, Washington, Wisconsin, West Virginia, and Wyoming) adopted criteria for 3 classes of electric bicycles, which classes are described as:

- a. Class 1 electric bicycles, which have a maximum speed limit of 20 mph and operate with pedal assistance as they do not have a gas valve for motor power.
- b. Class 2 electric bicycle, having the same maximum speed limitation as class 1, equipped with a main pedal that allows the bicycle to operate without pedaling by human power.
- c. Class 3 electric bicycles are limited edition electric bicycles on pedal assist like class 1, but the highest maximum assist speed is 28 mph.

All three classes of electric bicycles are regulated in a similar way to regular bicycles in the United States in terms of licensing, insurance and registration requirements. In most states in the United States, electric bicycles are allowed to use the same paths as regular bicycles. However, governments have the authority to impose restrictions on the use of electric bicycles on bicycle paths. Therefore, it is important to further elaborate on the electric bicycle regulations in each state in the United States because each state has a different form of track.

Europe also has strict regulations regarding electric bicycles. European Union Directive 2002/24EC, which was later replaced by European Union Directive 168/2013, stipulates that Electrically Pedal Assisted Cycles (EPACs) must have a maximum power of 250-watts and a maximum speed of 25 km/h (European Parliament, Council of the European Union, 2002).

- a. Electric bicycles in Europe are classified into three main types (Engwe, 2023):
- b. Pedelec: A pedal-assist bicycle with 250-watt power and a maximum speed of 25 km/h, no insurance or tax required.
- c. Speed Pedelec: A bike with a maximum speed of 45 km/h and up to 4000 watts of power, requiring a driver's license, tax and insurance.
- d. Throttle-Controlled E-Bikes: A bicycle that operates like an electric motor with a gas system, which is subject to motor vehicle regulations in European countries.

While the general rules are set, each European state has its own policies regarding speed limits, helmet use, bike lanes, and registration and insurance requirements (ENGWE, 2024).

Compared to regulations in the United States and Europe, Indonesia still does not have specific regulations governing the use of electric bicycles in detail. Article 2 paragraph (1) of Presidential Regulation No. 55/2019 on the Acceleration of the Battery-Based Electric Motor Vehicle Program only regulates two-wheeled electric vehicles in general, without a specific classification for electric bicycles. This causes legal uncertainty for electric bicycle users in Indonesia. Currently, there is no legal certainty regarding safety aspects such as standardized helmets, dedicated electric bicycle lanes, speed limits, insurance, and rider age limits. If not immediately reformulated into the LLAJ Law, the use of electric bicycles on public roads will lead to regulatory conflicts that can lead to legal and safety problems. To avoid a legal vacuum, Indonesia should immediately adopt a regulatory approach similar to that in the United States and Europe, classifying electric bicycles based on speed and power, as well as establishing technical regulations related to vehicle specifications and driving safety aspects.

Reformulation of the LLAJ Law is a crucial step in providing legal certainty regarding electric bicycles. This regulation must include:

- a. Definition and classification of electric bikes based on motor power and speed.
- b. Technical and safety requirements, such as mandatory helmet use, speed limits, and safety features such as lights and brakes.
- c. Registration procedures, to facilitate vehicle identification and supervision by law enforcement.
- d. Regulate lanes and areas of use, so as not to endanger other road users.

When associated with Gustav Radbruch's Legal Objective Theory, this regulatory reformulation aims to create justice, benefit, and legal certainty. Clear regulations will provide justice for road users, benefits in the use of electric bicycles as an alternative mode of transportation, and legal certainty in their use on the road.

In addition, harmonization of regulations between the central and local governments is an important step to ensure uniformity of rules regarding electric bicycles. Currently, there are different interpretations in local regulations regarding the use of electric bicycles, potentially creating legal confusion for the public. Therefore, it is necessary to standardize national regulations that cover all aspects, from definitions to rules of use on the road.

Currently, Indonesia lags behind the United States and Europe in regulating electric bicycles. Reformulation of the LLAJ Law must be done immediately to create regulations that are fair, clear, and adaptive to technological developments. This regulation should

include technical standards, registration procedures, safety provisions, and effective monitoring mechanisms. With harmonized regulations between the central and local governments, it is expected that the use of electric bicycles can be more structured and safer for the community.

4. Conclusions

The unclear legal status of electric bicycles in Indonesia's national legal system has caused various problems, including in the aspects of legal certainty, justice, and user safety. Currently, Law No. 22/2009 on Road Traffic and Transportation (LLAJ Law) does not specifically regulate electric bicycles, resulting in ambiguity in the application of the law. Minister of Transportation Regulation No. 45/2020 does provide some guidelines, but it is still not comprehensive enough in determining the classification of electric bicycles and the rights and obligations of their users. When compared to regulations in the United States and Europe, Indonesia is still lagging behind in terms of more specific and adaptive arrangements for the development of transportation technology. Therefore, legal reformulation is needed that not only ensures legal certainty but also guarantees justice for all road users. This reformulation must be able to accommodate technological developments, provide clear guidelines for law enforcement officials, and ensure the safety of electric bicycle users on the road.

The government needs to immediately reformulate the LLAJ Law to accommodate the use of electric bicycles by establishing clear classifications, speed limits, and safety requirements for users. This regulation must also be harmonized with policies at the regional level to avoid legal imbalances in the application of the rules. In addition, there is a need to increase the capacity of law enforcement officials so that they can enforce regulations fairly and consistently. Socialization to the public regarding the rights and obligations in using electric bicycles must also be carried out intensively through various platforms, including social media and educational campaigns. With clearer regulations and better law enforcement, the use of electric bicycles can develop as a safe, efficient, and environmentally friendly transportation solution in Indonesia.

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CRIMINAL LAW AND CRIMINOLOGICAL ASPECTS OF INTIMIDATION OF THE POPULATION CONCERNING TERRORIST THREATS

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Abstract

The article is devoted to the analysis of the types of threats in the commission of criminal offenses related to a terrorist act, namely: "Terrorist act", "Involvement in committing a terrorist act", "Public calls for committing a terrorist act", "Facilitating a terrorist act". The author analyzes the total number of criminal offenses committed in the field of public security, and then separately examines the corpus delicti of criminal offenses containing signs of a threat of a terrorist act. The study of this array of criminal proceedings, generalization of materials and highlighting of features and individual aspects provide sufficient grounds to assert that criminal offenses against public security are accompanied by certain types of mental violence: intimidation of the population (which is expressed in the demonstration and carrying of firearms, etc.); commission of terrorist acts with the aim of influencing the decision-making, actions or inaction of public authorities or local self-government bodies, including the threat of such acts. The article examines the elements of criminal offenses related to the threat of committing a terrorist act. The empirical study was conducted using statistical data obtained from the Unified State Register of Court Decisions and a survey of employees of the State Bureau of Investigation and the Security Service of Ukraine on the concept of threats and mental violence. The author also analyzes the percentage of criminal offenses related to threats of terrorist acts. Conclusions are drawn regarding the existence of an additional mandatory object, namely, the mental health of the population in cases of threats of a terrorist act.

Keywords: terrorism; threats; intimidation; terrorist act; involvement.

1. Introduction

The contemporary reality in which Ukrainian society exists is shaped not only by open military aggression but also by the complex influence of hybrid warfare, which encompasses political, economic, informational, and psychological dimensions. Among the most destructive tools of hybrid warfare are terrorist threats and associated forms of mental violence aimed at destabilizing public order, undermining trust in state institutions, and creating a widespread atmosphere of fear, panic, and demoralization (Hnietniev, 2009). For this reason, the study of criminal law and criminological aspects of intimidation of the population in the context of terrorist threats is both scientifically justified and socially necessary.

This article is of interest not only to specialists in criminal law and criminology but also to law enforcement professionals, judges, policymakers, and scholars in the fields of security studies, psychology, and sociology (Domenko & Turkevych, 2023). Historically, terrorist crimes have been viewed primarily through the lens of physical violence directed at killing individuals, damaging infrastructure, or causing material losses (Danylevskyi,

2009). However, global experience—especially the terrorist attacks of September 11, 2001, in the United States, subsequent attacks across Europe, and more recently, the military actions in Ukraine—has demonstrated that psychological impact can be equally or even more damaging. The widespread dissemination of fear and a sense of insecurity is a strategic tool of terrorist actors, turning terrorism into a form of psychological warfare (Dremyn, 2022).

Against the backdrop of an increasing number of crimes against public safety, Ukrainian legislation, despite notable efforts, does not adequately consider the psychological component of such crimes. An analysis of Articles 258 through 258⁴ of the Criminal Code of Ukraine reveals that although terms like «threat,» «involvement,» and «public calls» are present, the mental health of individuals or society is not explicitly recognized as an autonomous legal good.

The theoretical basis of this study is grounded in the works of leading Ukrainian legal scholars, including Yu.V. Baulin (2023), B.M. Burdin (2018), O.V. Kyrychenko (2005), S.M. Mokhonchuk (1999), M.V. Semykin (2004), O.M. Kostenko (2006) who have examined aspects of mental influence, pressure, and intimidation in the context of organized crime, terrorism, and crimes against public safety. However, there is still no comprehensive vision of intimidation as a form of mental violence that should be formally recognized as an objective element of terrorist offenses or as a distinct crime in its own right.

In the criminological discourse, although researchers acknowledge the destructive psychological impact of terrorist acts, structural analysis of such crimes has often focused on institutional, financial, or operational aspects of terrorism (Iemelianov, 2020). This has created a theoretical gap that limits the capacity to fully assess the scope of harm caused by these offenses and hinders the development of preventive mechanisms that prioritize psychological safety.

The core problem lies in the lack of normative and doctrinal recognition of mental violence—particularly intimidation—as an independent method of committing terrorist crimes. While Ukrainian law does incorporate certain features of psychological influence (e.g., involvement through blackmail or exploiting a vulnerable condition), the overall criminal law paradigm for protecting public safety remains largely focused on physical harm (Kvasha, 2014). Therefore, there is a need for a deeper conceptualization of terms such as «fear,» «intimidation,» «mental influence,» and «psychological health» within the framework of criminal legal qualification.

The purpose of this research is to conduct a comprehensive criminal law and criminological analysis of intimidation of the population as a form of mental violence in the commission of terrorist offenses and to justify the recognition of citizens' mental health as an additional legal object protected by criminal law in such cases.

The hypothesis of the study is that terrorist-related offenses involving mental violence—such as threats, involvement, public incitement, and recruitment—cause not only harm to public safety but also direct psychological harm to individuals and society. Therefore, mental health should be recognized as an additional protected legal interest in the criminal law provisions dealing with such offenses.

3. Result and Discussion

Intimidation, as a form of mental violence, constitutes a systemic and dangerous component of terrorism-related crimes. Its manifestations include not only overt threats or coercion but also more subtle methods of psychological manipulation, deception, and recruitment, all of which serve to undermine public safety and destabilize the mental health of citizens.

According to official data from the Prosecutor General's Office of Ukraine, in 2022 alone, 71,221 criminal offenses against public safety were registered, with 42,718 individuals receiving notifications of suspicion, and 30,139 indictments submitted to court. A significant portion of these offenses involved various elements of mental

violence—threats, public calls for violence, and recruitment tactics intended to coerce individuals into criminal activity under psychological pressure.

The study of this array of criminal proceedings, generalization of materials and identification of features and individual aspects provide sufficient grounds to assert that criminal offenses against public security are accompanied by certain types of mental violence:

1) intimidation of the population (which is expressed in the demonstration and carrying of firearms, etc.);

2) committing terrorist acts to influence the decision-making, actions or inaction of public authorities or local self-government bodies, including the threat of committing such acts;

3) threat of committing a terrorist act;

4) involvement in committing a terrorist act by deception, blackmail, vulnerable state of a person or threat of violence;

5) public calls for committing a terrorist act;

6) facilitating the commission of a terrorist act by recruitment, including knowingly false reports of preparations for explosions, arson or other actions that threaten the death of people;

Summarizing the above, first of all, intimidation as a type of mental violence that occurs in the commission of criminal offenses against public safety is noteworthy.

Intimidation is the commission of active actions by the perpetrator of an offense, such as threats of physical or mental violence against the victim or his or her close relatives in order to subdue the will of a person, which is similar in nature to blackmail. The difference between intimidation and blackmail is that intimidation does not use compromising information. Intimidation is most often used to:

1) obtaining information;

2) recruitment;

3) forcible coercion to a certain action;

4) correction of the victim's behavior (Katerynychuk, 2017).

For example, intimidation as a type of mental violence is evident from the materials of criminal case No. 710/437/23-k, in which the accused acted jointly and in concert, distributed criminal functions, the sequence of their implementation in the preparation and commission of a future attack, they also prepared the instruments of the criminal offense (a baseball bat to exert mental pressure on the victims, firearms, ammunition, a GDR-5 grenade, etc.), masks for disguise, gloves, etc (Yurkevych, 2023).

Considering the criminal offense provided for in Article 258 of the Criminal Code of Ukraine "Terrorist Act", the analysis of the disposition shows that, despite the fact that during the commission of terrorist acts property damage, damage to the physical and mental health of citizens is caused, only public safety is a mandatory object of a criminal offense.

In our opinion, when committing terrorist acts (terror from the Latin "terror" - "fear, horror"), systematic intimidation is carried out, destabilization of the mental health of the population, accompanied by a sense of fear and anxiety.

The objective side of the criminal offense is characterized by the commission of a terrorist act in the following forms:

1) the use of firearms, an explosion, arson, which creates a danger to the life and health of citizens or property damage, etc.;

2) a threat to commit the above actions;

3) the creation and leadership of a terrorist group (to commit one or more terrorist acts) or organization (created for an indefinite period to achieve the goal), participation in such or committing actions that contribute to the creation or operation of a terrorist organization (Filenko, 2015).

The subjective side is characterized by direct intent and a special purpose - violation

of public safety, intimidation of the population, provocation of a military conflict, etc. The subject of the criminal offense is a sane person who has reached the age of 14.

As a result of mental pressure (intimidation, coercion), victims experience feelings of fear, anger, indignation, etc.

In turn, as discussed in the previous subsection, coercion is a certain requirement of the subject of a criminal offense, which is realized by threatening, in order to break the will of a person and oblige the latter to perform certain actions (active or passive) to meet the needs of the offender.

Any type of mental violence (intimidation, coercion, threats, etc.) affects the victim as irritants that form in the person's mind the development of negative consequences in case the offender's needs are not met (threats to use firearms, commit an explosion or arson, which will endanger the victim's life and health or cause significant property damage, etc.), which actually harms mental health.

A logical continuation of the analysis of criminal offenses against public security committed with the use of mental violence is the criminal offense under Art. 258¹ of the Criminal Code of Ukraine "Involvement in a Terrorist Act". From the disposition of the article, it is clear that such involvement is carried out through active mental influence by the subject of the offense, namely coercion, deception, blackmail, use of a person's vulnerable state, and threat of violence.

The objective side is characterized by two ways of committing a criminal offense:

- involvement (defined as incitement (inducement) of a person to voluntarily participate in a terrorist act, i.e. the subject of the offense through active actions (bribery, incitement to revenge, hatred, envy, etc.) convinces a person of the expediency of committing a criminal offense, while simultaneously teaching certain techniques and methods of performing such active actions);

- coercion (committed against the person's will, namely by:

- 1) deception (i.e., reporting false information, etc.);

- 2) blackmail;

- 3) use of a person's vulnerable state (due to physical or mental characteristics of a person, both chronic (mild degree of debility, idiocy, etc.) and short-term (alcohol or drug intoxication, state of affect, depression, etc.), which limit the person's ability to realize and control their actions, make decisions independently or resist);

- 4) threat of violence (expressed in the form of psychological influence, intimidation regarding bodily harm, deprivation of life, rape, etc. and perceived by the person as real).

The subjective side of a criminal offense is characterized by direct intent. The subject is a natural person of sound mind who has reached the age of 16.

At the same time, the criminal offense is considered completed from the moment the subject of the offense performs any actions aimed at realizing the objective side of the criminal offense under Art. 258¹ of the Criminal Code of Ukraine, regardless of whether the person who was involved or forced committed a terrorist act.

According to the results of a survey of police officers conducted in the course of researching the topic of the dissertation, it was found that 70% of the respondents classified "coercion" as mental violence and 61.5% of police officers classified the criminal offense under Article 258¹ of the Criminal Code of Ukraine "Involvement in a Terrorist Act" as mental violence. At the same time, 32.7% of respondents believe that the criminal offense under Article 258¹ of the Criminal Code of Ukraine does not refer to violence at all and is a voluntary consent of a person, 5.8% of police officers classify this offense as physical violence (see Table 1).

Summarizing the above, it should be emphasized that such methods of committing a criminal offense as involvement and coercion are types of mental violence, since as a result of mental influence they change the consciousness and behavior of a person, and therefore, in the author's opinion, the mental health of citizens should be an additional mandatory object of a criminal offense under not only Article 258¹ of the Criminal Code

of Ukraine, but also all criminal offenses considered in the context of this subsection of the dissertation.

Next, we propose to consider the criminal offense of “Public calls for committing a terrorist act”, liability for which is determined by Art. 258² of the CC of Ukraine.

From the objective side of the criminal offense, psychological violence can be traced both directly in public calls to commit a terrorist act and in the dissemination of such materials, since the offender tries to exert psychological influence on the mind by inciting, inducing, coercing through deception or through distortion of information regarding an indefinite number of persons in order to convince the latter of the need and expediency of committing terrorist acts, which can be used to achieve certain individual goals.

Due to the fact that the active actions of the subject of the criminal offense are aimed at an indefinite number of persons, this criminal offense differs from the criminal offense under Art. 258¹ of the Criminal Code of Ukraine “Involvement in a terrorist act”.

The subjective side is characterized by direct intent and purpose - dissemination of materials calling for the commission of a criminal offense under Article 258² of the Criminal Code of Ukraine. The subject is a natural person of sound mind who has reached the age of 16.

The criminal offense is considered completed from the moment the calls are disclosed (proclaimed), including the production or storage of relevant materials.

Based on the results of monitoring the register of court decisions, it was found that only 112 guilty verdicts were delivered in Ukraine for committing a criminal offense under Art. 258² of the Criminal Code of Ukraine, of which: in 2021, 14 guilty verdicts were delivered by the Nakhimov District Court of Sevastopol. Sevastopol; in 2022 - 21 guilty verdicts by the Kyiv-Svyatoshynskiy District Court of Kyiv Region; in 2023 - 31 guilty verdicts by the Prymorskyi District Court of Mariupol; and in 2024 - 46 guilty verdicts by the Prymorskyi District Court of Odesa.

The next type of mental violence in the commission of criminal offenses against public security is recruitment under Article 258⁴ of the Criminal Code of Ukraine “Facilitating a Terrorist Act”, which should be understood as activities to search for, agitate and select persons who have expressed a desire, and send them to training, etc.

In the literature, there is an opinion among scholars that the peculiarity of recruitment is the exclusion of any kind of violence. However, this conclusion cannot be unequivocally accepted. The author agrees with the position that recruitment excludes the use of physical violence, including coercion or intimidation, as a form of mental violence, since in such cases the criminal offense should be qualified under Article 258¹ of the Criminal Code of Ukraine “Involvement in Terrorist Activities”, and not under Article 258⁴ of the Criminal Code of Ukraine “Facilitating a Terrorist Act”.

In the author’s opinion, recruitment is a separate type of mental violence and involves the offender’s prior influence on the psyche of the person to be recruited. When communicating with “potential” candidates for recruitment, offenders find the weaknesses of the opponent, which they use to manipulate them. Potential victims of recruitment are most often girls and boys who were not in love in childhood, or were deprived of something in childhood, or for religious reasons.

For example, when a young girl becomes a target of recruitment, the recruiter illusory satisfies her need for love and care, thereby formulating psychological dependence on the recruiter and, as a result, the recruited person becomes an instrument of criminal offenses. That is why, having analyzed the dispositions of Articles 258¹ and 258⁴ of the Criminal Code of Ukraine, the author believes that it would be appropriate to refer “recruitment” to the methods (forms) of committing a criminal offense under Article 258¹ of the Criminal Code of Ukraine “Involvement in a Terrorist Act”.

Having evaluated the statistical data of 2022-2024, it can be concluded that the most common and dangerous criminal offenses against public safety involving the use

of mental violence are:

“Terrorist act” (art. 258 of the Criminal Code of Ukraine) - 10%, including such qualifying signs of a terrorist act as threats to commit a terrorist act - 8%, committing terrorist acts to influence decision-making, actions or inaction by public authorities or local self-government bodies, including threats to commit such actions - 0.3%;

“Involvement in committing a terrorist act”, using deception, blackmail, vulnerable state of a person or threat of violence (Art. 258¹ of the Criminal Code of Ukraine) - 2 %;

“Public calls to commit a terrorist act” (Art. 258² of the Criminal Code of Ukraine) - 0.9 %;

“Facilitating the commission of a terrorist act” (Art. 258⁴ of the Criminal Code of Ukraine) - 2.5 %;

This statistical overview confirms that mental violence is not peripheral but central to terrorism-related criminality in Ukraine. Thus, there is sufficient evidence to propose that mental health be formally included as an additional mandatory object of protection under Articles 257, 258, 258¹, 258², 258⁴, 259, 262, 265, and 266 of the Criminal Code of Ukraine.

In summary, mental violence—intimidation, coercion, threats, psychological manipulation—must be acknowledged not only as an auxiliary method in the commission of terrorist crimes but as a core mechanism that produces profound and lasting harm. A criminal law framework that fails to account for this dimension remains incomplete and ineffective in addressing the full spectrum of terrorist threats.

5. Conclusions

The conducted study has demonstrated that terrorism-related criminal offenses pose a complex threat not only to public safety but also to the psychological well-being of individuals and society. While traditional legal interpretations primarily address the physical consequences of such offenses, the analysis clearly reveals the central role of mental violence, particularly intimidation, as an instrument of psychological pressure and destabilization.

The analysis of Articles 258, 258¹, 258², and 258⁴ of the Criminal Code of Ukraine reveals that these norms inherently contain elements of psychological impact: threats, coercion, deception, and manipulation. These acts are not only preparatory or secondary tactics but rather constitute independent forms of violence that result in the formation of fear, psychological trauma, and emotional dependency among victims. These consequences should be recognized as direct harm and not merely side effects of terrorism.

Empirical data, including statistical reports and law enforcement surveys, confirm the prevalence of mental violence in the mechanism of terrorist crimes. The involvement of individuals in terrorist acts through blackmail or psychological manipulation, public incitement to violence, and recruitment based on emotional vulnerability represent forms of intentional psychological influence, the legal significance of which remains underestimated in current doctrine and practice.

Therefore, the following conclusions and proposals can be made:

- Intimidation as a method of committing terrorism-related offenses must be formally recognized as a type of mental violence with legal implications equal to those of physical violence.
- Mental health of citizens should be defined as an additional mandatory legal object in the structure of terrorism-related criminal offenses, particularly under Articles 258, 258¹, 258², and 258⁴ of the Criminal Code of Ukraine.
- It is necessary to revise criminal legislation to include psychological violence—especially intimidation, coercion, and recruitment through manipulation—as explicit elements of terrorism-related crimes.
- In practical terms, law enforcement and judicial authorities should take into account the psychological harm inflicted upon victims when qualifying and sentencing

for such offenses. This includes emotional trauma, behavioral changes, and long-term psychological effects on individuals and communities.

- The findings support the broader criminological view that terrorism is not only a physical threat but also a psychological weapon that aims to alter public behavior, instill fear, and erode state authority by destabilizing collective mental resilience.

In conclusion, a comprehensive response to terrorism must integrate both physical and psychological dimensions of criminal activity. Legislative, institutional, and theoretical frameworks should evolve to protect not only the bodily integrity of citizens but also their mental and emotional security, thus ensuring the full realization of the constitutional principle that human dignity and safety are the highest social values.

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PUBLIC INFORMATION DISCLOSURE IN THE PROCESS OF PROVIDING LEGAL CONSIDERATIONS BY THE ATTORNEY GENERAL'S OFFICE: A LEGAL COMPARISON BETWEEN INDONESIA AND INDIA

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Abstract

Land boundary determination is a fundamental aspect of land administration in Indonesia, aimed at ensuring legal certainty and preventing disputes among landowners. Recent technological advancements, including the use of drones and photogrammetry as regulated in Permen ATR/BPN No. 3/Juknis-HK.02/III/2023, have significantly improved efficiency in land measurement processes. These technologies enable accurate data collection even in inaccessible locations and produce digital maps supporting the modernization of land administration. However, their application raises critical legal issues, particularly regarding violations of the rechtszekerheid principle (legal certainty) and contradictory delimitation, which require the direct presence of landowners and bordering parties. This study employs a normative juridical method, focusing on statutory and conceptual approaches. The findings indicate that while drones and photogrammetry enhance efficiency, the absence of direct stakeholder involvement undermines the legitimacy of measurement outcomes. Regulatory revisions are necessary to integrate field validation, ensuring compliance with legal and technical standards. The conclusion emphasizes harmonizing technological advances with legal principles to create an efficient, transparent, and equitable land administration system that aligns with Indonesia's systematic land registration goals by 2025.

Keywords: Land boundaries; drones; legal certainty; land administration; photogrammetry

1. Introduction

Land plays a fundamental role in human life, not only as a place of residence but also as an economic asset and a symbol of identity governed by law. In the context of land administration in Indonesia, land boundary regulation is a crucial element aimed at providing legal certainty for landowners while minimizing the potential for conflicts and disputes.

The Basic Agrarian Law (UUPA) Number 5 of 1960, as the legal foundation of agrarian law in Indonesia, emphasizes the importance of land registration to provide legal assurance of land ownership. This provision is reinforced through Government Regulation Number 24 of 1997 on Land Registration, which regulates the fundamental principles of land administration, including the determination and designation of land boundaries. In practice, the principle of *contradictoire delimitatie*, which requires the presence of landowners along with their neighbors during the boundary determination process, serves as an essential step to ensure the accuracy and validity of land boundary data. (Kaarhus & Dondeyne, 2015, p. 193)

However, in its implementation, various issues often arise, such as differences in the interpretation of regulations, the use of technology without the involvement of landowners, and discrepancies between field data and measurement results. For instance, recent regulations, such as the Technical Guidelines for Complete Systematic Land Registration (PTSL), allow the use of drones or photogrammetric methods. (Jahani Chehrehbargh et al., 2024, p. 22) In boundary measurements conducted without direct designation, there is a potential conflict with the principle of *contradictoire delimitatie* as stipulated in Government Regulation Number 24 of 1997. This situation may trigger legal disputes between landowners and the authorities, ultimately disadvantaging the community as rightful landowners.

This case involves a land dispute in Labokke Hamlet, Puty Village, Bua District, Luwu Regency, which originated from the Plaintiff's possession of the land since 1972. After purchasing the land, the Plaintiff utilized it for farming and rice fields. In 1991, the land was certified under a Certificate of Ownership in the name of Subaedah (Plaintiff I) Palopo District Court Decision Number: 25/Pdt.G/2014/PN Plp. However, in 2012, without the Plaintiff's consent, Defendant I took control of part of the land, which had previously been used in a new rice field development project by the Luwu Regency Government. Additionally, Defendant I trespassed by planting rice and harvesting timber belonging to the Plaintiff. Attempts to resolve the issue by the village and subdistrict governments were unsuccessful, leading to the case being brought before the Palopo District Court. The land measurement conducted by Defendant II (Land Office) sparked controversy due to discrepancies with field data, disregard for pre-existing land boundaries, and alleged violations of applicable regulations. Consequently, the Plaintiff sought justice for their encroached land rights and procedural violations by the parties involved.

Additionally, weaknesses in supervision and coordination among relevant agencies during the land boundary designation process have also contributed to the rising number of land dispute cases. (Wardani et al., 2023, p. 100042) As an illustration, several court rulings reveal that inaccuracies in determining land boundaries often trigger prolonged conflicts, which not only hinder the land administration process but also undermine public trust in the government. Legal facts indicate that, apart from disputes over measurements and land boundaries, the implementation of land registration, particularly within the Complete Systematic Land Registration Program (PTSL), faces several fundamental legal issues. One of these issues is the differing interpretations regarding the mechanisms for implementing PTSL, which can generally be carried out through two approaches: the establishment of separate PTSL service posts independent of the land office or integrated services directly within the land office. In the first mechanism, PTSL service posts are designed to focus on registration

activities without disrupting routine services at the land office. However, this mechanism often leads to overlapping authorities if not accompanied by adequate coordination. Meanwhile, the second mechanism, integrated services with a «door-to-door» approach, offers convenience for the public but carries risks if there is no strict supervision of field officers. In practice, both mechanisms require sufficient and qualified human resources (HR). However, the implementation of PTSL often faces challenges due to the limited availability of competent HR, considering the involvement of various parties, including civil servants from the Ministry of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN), Licensed Cadastral Surveyors, Non-Permanent Employees, and even high school/vocational students undertaking internships. The disparity in competence among these parties can lead to inaccurate measurement data and procedural violations. This reflects a lack of harmony between the implementation mechanisms and the need for optimal HR, ultimately triggering disputes and legal issues in land administration in Indonesia

The issue of land boundary designation often leads to legal conflicts due to the disharmony between fundamental principles of land law, such as the principle of *contradictoire delimitatie*, and the application of modern technology in land measurements that exclude the direct participation of landowners. Additionally, differences in the implementation mechanisms of the Complete Systematic Land Registration Program (PTSL) and the limited availability of competent human resources also serve as contributing factors to disputes.(Cienciała et al., 2022, p. 4412) Therefore, it is essential to formulate an appropriate legal framework to regulate land boundary designation, aiming to prevent legal conflicts and provide fair legal certainty for all

2. Materials and Methods

This study employs a normative juridical method, a legal research approach that focuses on the analysis of legislation, concepts, theories, and relevant legal principles. (Irwansyah, 2021, p. 17) This study aims to understand and analyze legal issues related to land boundary designation by comparing Article 18 of Government Regulation Number 24 of 1997 with Ministerial Regulation of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) Number 3/Juknis-HK.02/III/2023.

The approaches used in this study include the statutory approach and the conceptual approach. The statutory approach involves examining the applicable laws and regulations to understand how the law governs land boundary designation. Meanwhile, the conceptual approach is used to explore doctrinal perspectives or evolving legal doctrines to construct a legal framework capable of preventing conflicts in the regulation of land boundary designation.(Amirudin & Asikin, 2016, p. 112)

The legal materials used in this study consist of primary and secondary legal materials. Primary legal materials include directly applicable regulations, such as Law Number 5 of 1960 on Basic Agrarian Principles, Government Regulation Number 24 of 1997 on Land Registration, Government Regulation Number 18 of 2021, and the Technical Guidelines for Complete Systematic Land Registration Number 3/Juknis-HK.02/III/2023. Secondary legal materials include literature, books, journals, and previous relevant studies, which provide additional context and assist in analyzing the primary legal materials.

The process of collecting legal materials involves steps such as identifying legal instruments, analyzing and eliminating irrelevant elements, and conducting an in-depth review of the legal issues central to the research. The legal material analysis techniques used include grammatical interpretation and systematic interpretation. Grammatical interpretation aims to understand legal provisions through the analysis of language and sentence structure in legal texts, while systematic interpretation is employed to link the analyzed regulation with other related regulations to achieve a more comprehensive understanding.

3. Results and Discussion

3.1. Land boundary designation in Indonesia: Legal principles, technological advancements, and challenges

Land boundary designation is one of the fundamental elements of the agrarian legal system in Indonesia. As part of land administration, this process aims to determine and establish the physical boundaries of land owned by individuals or legal entities. Land boundary designation is not only related to the technical aspects of measurement but also holds significant legal dimensions, namely providing validity and certainty regarding the status of the registered land (Ansar et al., 2021). In the context of agrarian law, land boundary designation serves as a crucial initial step to ensure the clarity of land rights as stipulated in Article 19 of the Basic Agrarian Law (UUPA) Number 5 of 1960, which mandates land registration to guarantee legal certainty for landowners.

The process of land boundary designation in Indonesia involves several legal principles, one of which is the principle of *contradictoire delimitatie* as outlined in Article 18 of Government Regulation Number 24 of 1997 on Land Registration. This principle requires the active involvement of landowners and their neighbors in determining land boundaries on-site. (Arief, 2018) The presence of both parties aims to ensure that the designation of boundaries is accurate, transparent, and mutually agreed upon.

With the advancement of technology, the use of modern methods such as drones or photogrammetry in land boundary measurements has introduced new challenges. While these technologies enable efficiency in land registration processes, they often disregard the direct participation of landowners as mandated by existing legal principles. (Buana et al., 2024) In this context, the relevance of land boundary designation becomes increasingly significant, not only as an administrative tool but also as an instrument to prevent disputes and protect the legal interests of landowners.

The relevance of land boundary designation within the context of agrarian law in Indonesia is inseparable from its primary function as a tool to ensure clarity of land rights while preventing potential conflicts often arising from discrepancies in physical data on the ground. From the perspective of land administration, land boundary designation is not merely a technical process but also reflects the integrity of the legal system aimed at safeguarding ownership certainty. This becomes increasingly crucial in the context of rising population density and the growing complexity of land needs, where the risk of overlapping ownership claims is significantly heightened.

On the other hand, land boundary designation also plays a key role in strengthening the function of land registration. As regulated under Government Regulation Number 24 of 1997, land registration not only serves to provide legal certainty but also acts as a primary instrument for the efficient and equitable management of land resources. Accurate boundary designation is a prerequisite for land registration to ensure that recorded data align with actual conditions on the ground. (Menon, 1979) In this context, land boundary designation is not only declarative but also constitutive, as it serves as the foundation for legal recognition of landowners' rights.

In Indonesia's agrarian legal system, land registration serves as the primary instrument to provide legal certainty and protection of land rights for every citizen. Government Regulation Number 24 of 1997 on Land Registration acts as the legal foundation governing the mechanisms and procedures for systematic land registration. (Çağdaş et al., 2023) One of the key elements regulated in this provision is the principle of *contradictoire delimitatie*, which aims to ensure clarity and validity of land boundaries through a process that directly involves the relevant parties.

Article 18 of the regulation specifically emphasizes the importance of land boundary determination with the presence of landowners and adjacent parties. This process not only serves as the foundation for establishing physical land data but also plays a crucial role in preventing potential disputes. The principle of *contradictoire delimitatie* reflects

an effort to integrate technical and legal aspects into land administration, fostering transparency and accountability to support a fair agrarian system.(Adler, 2001)

Technological advancements have brought significant changes to various aspects of land administration, including land measurement methods. One of the latest innovations is the use of drones and photogrammetric methods, as regulated in the Ministerial Regulation of Agrarian Affairs and Spatial Planning/National Land Agency (ATR/BPN) Number 3/Juknis-HK.02/III/2023 on Technical Guidelines for Complete Systematic Land Registration (PTSL).(Sohl & Mahmood, 2024) This regulation offers efficiency in the land registration process, particularly in boundary measurement, by enabling the use of modern technology to expedite the accurate collection of physical land data.(Polkowska, 2023)

The implementation of this Ministerial Regulation of ATR/BPN raises critical questions regarding the legal principles underlying land boundary designation. Article 18 of Government Regulation Number 24 of 1997 on Land Registration stipulates that boundary designation must directly involve landowners and adjacent parties as part of the principle of *contradictoire delimitatie*. This principle aims to ensure the accuracy and validity of land boundary data while preventing future disputes. In practice, the use of technology without the direct participation of landowners has the potential to conflict with this principle.(Deliry & Avdan, 2021)

The discussion on the analysis of Ministerial Regulation of ATR/BPN Number 3/Juknis-HK.02/III/2023 and its conflict with Article 18 of Government Regulation No. 24 of 1997 will be outlined in two separate subchapters. The first subchapter will focus on an in-depth analysis of the content and objectives of the regulation in the Ministerial Regulation of ATR/BPN. The second subchapter will critically examine the conflict that arises between the principle of *contradictoire delimitatie* in Government Regulation No. 24 of 1997 and the use of modern technology regulated in the Ministerial Regulation of ATR/BPN, as well as its impact on legal certainty and dispute prevention. This structured discussion is expected to provide a comprehensive overview of the issues raised.

3.2. Analysis of Ministerial Regulation of ATR/BPN Number 3/Juknis-HK.02/III/2023

Ministerial Regulation of ATR/BPN Number 3/Juknis-HK.02/III/2023 was issued as a strategic step to support the acceleration of the Complete Systematic Land Registration (PTSL) program, a national initiative aimed at ensuring legal certainty over land rights in Indonesia. In this context, the regulation offers an innovative approach by integrating modern technologies such as drones and photogrammetric methods into the processes of land measurement and mapping. These technologies provide a more efficient alternative compared to conventional methods, which have historically required significant time and resources.(Serafinelli, 2024) With the capability to produce high-quality mapping data in a relatively short time, this regulation is expected to accelerate the land registration process across Indonesia, particularly in remote and hard-to-reach areas.

Drones and photogrammetric methods outlined in this regulation are designed to address common technical challenges in land measurement processes, such as limited access to certain locations or difficulties in conducting manual surveys. This technology enables the capture of images and measurements with high precision, which are then processed into digital maps that serve as a foundation for land administration. These advantages significantly contribute to operational efficiency, particularly in helping the government achieve its ambitious target of registering all land parcels in Indonesia by 2025. Furthermore, the adoption of this technology presents an opportunity to modernize the land administration system, which has long been regarded as rigid and overly manual.

Under this regulation, the use of drones is permitted for photogrammetric land

measurements without requiring direct boundary designation by landowners and their neighbors. This method is considered a modern solution to technical challenges in land measurement, particularly in areas difficult to reach with manual methods. Drones can map large areas at high speed and produce high-quality digital maps that accurately reflect the physical conditions of the land. These advantages make drones an efficient tool for accelerating the land registration process, especially in the Complete Systematic Land Registration (PTSL) program, which has the ambitious target of completing the registration of all land parcels in Indonesia by 2025.

Despite its technological advantages, this approach raises significant legal issues. One of the primary concerns is the potential violation of the *contradictoire delimitatie* principle as stipulated in Article 18 of Government Regulation Number 24 of 1997 on Land Registration. This principle emphasizes the importance of the direct presence of landowners and adjacent parties during the boundary determination process. Such presence not only ensures the validity of land boundaries but also provides an opportunity for all parties to reach agreements that can prevent future disputes. By excluding landowners' direct involvement in drone-based measurements, the resulting data could be considered invalid or fail to reflect the consensus required by this legal principle.

The use of modern technologies such as drones and photogrammetric methods in land measurement, as regulated by Ministerial Regulation of ATR/BPN Number 3/Juknis-HK.02/III/2023, represents an innovation aimed at enhancing efficiency in the implementation of the Complete Systematic Land Registration (PTSL) program. This regulation allows land measurements to be conducted without requiring direct boundary designation by landowners and their neighbors, as traditionally mandated by the *contradictoire delimitatie* principle. However, this approach raises legal issues that require thorough analysis, particularly regarding the harmonization between technological efficiency and adherence to agrarian legal principles.

Article 18 of Government Regulation Number 24 of 1997 on Land Registration emphasizes that land boundary designation must involve the presence of landowners along with their neighbors as part of the *contradictoire delimitatie* principle. This principle aims to ensure the validity of land boundaries through direct agreement among the parties, so that the resulting data can be accepted as legitimate evidence in land administration. The exclusion of the physical presence of the relevant parties during drone-based measurements raises questions about the validity of the results. This situation potentially violates the principle of *pacta sunt servanda*, which underscores the obligation to adhere to agreements or consensus in legal processes.

Another challenge that arises concerns the operational standards of drones, licensing, and the protection of public privacy. The use of this technology requires strict oversight to ensure that the data collected does not violate individual rights or lead to potential misuse. (Permadi et al., 2023) In addition, regulations governing the use of drones must align with the principles of public law and administrative law to ensure accountability in the implementation of the Complete Systematic Land Registration (PTSL) program.

The use of modern technologies such as drones and photogrammetric methods in land measurement, as regulated by Ministerial Regulation of ATR/BPN Number 3/Juknis-HK.02/III/2023, represents an innovation aimed at enhancing efficiency in the implementation of the Complete Systematic Land Registration (PTSL) program. This regulation allows land measurement to be conducted without requiring direct boundary designation by landowners and their neighbors, which is traditionally mandated by the *contradictoire delimitatie* principle. This principle requires the direct involvement of relevant parties in determining land boundaries to ensure the validity and legitimacy of the process. In this context, the principle not only reflects the doctrine of *pacta sunt servanda* the obligation to honor and execute agreements among parties but also

supports the principle of transparency in land administration.

However, this technology-based approach raises significant legal issues, particularly due to its potential violation of the principle of *rechtszekerheid* or legal certainty. Without the direct involvement of landowners, the validity of boundary measurements obtained through drones may be called into question, posing a risk of triggering legal disputes in the future. This situation could also undermine public trust in the land administration system, which is expected to provide clear and equitable legal protection for all parties involved.

3.3. Conflict Between Article 18 of Government Regulation No. 24 of 1997 and Ministerial Regulation of ATR/BPN No. 3/Juknis-HK.02/III/2023

The conflict between Article 18 of Government Regulation No. 24 of 1997 on Land Registration and Ministerial Regulation of ATR/BPN No. 3/Juknis-HK.02/III/2023 reflects a disharmony in the regulation of land administration, particularly in the process of land boundary determination. Article 18 of Government Regulation No. 24 of 1997 establishes the *contradictoire delimitatie* principle, which mandates the direct presence of landowners and adjacent parties during boundary designation. This principle aims to ensure the validity of land boundary data through direct agreement among the interested parties, thereby minimizing the potential for conflicts and disputes.

The *contradictoire delimitatie* principle, as stipulated in Article 18 of Government Regulation No. 24 of 1997, serves as a fundamental principle in land boundary determination for land registration in Indonesia. In its implementation, this principle requires the direct presence of landowners and adjacent parties during the boundary designation process. The primary objective of this approach is to ensure that the established land boundaries align with the factual conditions on the ground and have been mutually agreed upon by the involved parties. (Ficriyanta et al., 2024) This process provides legitimacy to the land boundary data produced, making it a valid basis for the issuance of land certificates. (Permadi et al., 2023)

Thus far, the implementation of this principle has been carried out through measurement mechanisms involving the Adjudication Committee for systematic land registration and the Head of the Land Office for sporadic land registration. The interested parties are officially invited to attend the boundary designation, which is typically conducted at the location of the land. (Hendriatiningsih et al., 2019) They are required to indicate their land boundaries, provide approval, and ensure there are no overlapping claims with neighboring land. The measurement results are then recorded in a land parcel map, which becomes an official document in land administration.

The implementation of this principle often encounters various challenges in the field. A primary issue is the absence of landowners or adjacent parties during boundary designation, which may arise due to a lack of awareness about the importance of the process, ongoing disputes, or logistical difficulties in bringing all relevant parties together. Such absences can render the resulting land boundary data invalid, necessitating repetition or adjustments to the process.

In several cases, non-compliance with the *contradictoire delimitatie* principle has led to disputes in the future. For instance, when boundary designation is conducted without the presence of one party, the resulting measurements may be considered inaccurate or fail to reflect mutual agreement, resulting in overlapping claims on the land. A case study of a land boundary dispute in Labokke Hamlet, Puty Village, Bua District, Luwu Regency, illustrates the challenges in implementing the *contradictoire delimitatie* principle during boundary determination. In this case, Article 18 of Government Regulation No. 24 of 1997, which mandates the presence of landowners and adjacent parties during boundary designation, was not fully applied, leading to conflicts between the landowner, neighbors, and the authorities.

The dispute began when a land remeasurement requested by the certificate

holder was not conducted in accordance with the existing physical data and disregarded the presence of relevant parties, including neighboring landowners. Moreover, the measurement extended beyond the boundaries recorded in the certificate, crossing a small river that should have served as the natural boundary. The absence of the involved parties during the measurement process became the root of the issue, as the results were deemed to not reflect the factual conditions and failed to comply with the *contradictoire delimitatie* principle.

The use of modern technology, such as drones, to expedite the land measurement process as regulated by Ministerial Regulation of ATR/BPN Number 3/Juknis-HK.02/III/2023, could exacerbate the situation if not accompanied by the direct involvement of relevant parties. In the Labokke case, if drones were used without on-site verification by the landowners and adjacent neighbors, the measurement results could further aggravate the legal uncertainty surrounding the land.

3.4. Legal construction of land boundary designation to prevent legal conflicts

The legal construction of land boundary designation to prevent legal conflicts requires a harmonious approach that integrates agrarian legal principles with the efficiency of modern technology. Fundamentally, the *contradictoire delimitatie* principle, as stipulated in Article 18 of Government Regulation No. 24 of 1997, remains a core element to ensure the validity of the land boundary designation process. This principle guarantees that land boundaries are established through the direct involvement of relevant parties, making the results legally recognized as a valid basis for land registration. However, with the introduction of technologies such as drones and photogrammetric methods, as regulated by Ministerial Regulation of ATR/BPN Number 3/Juknis-HK.02/III/2023, there arises a need to design regulations that can bridge the efficiency of technology with the existing legal principles.

To achieve harmonization between the efficiency of modern technology and the principles of agrarian law, regulatory revisions and procedural updates are needed to systematically and measurably integrate both aspects. A revision to Article 18 of Government Regulation No. 24 of 1997 could include provisions requiring that measurements conducted using technologies such as drones and photogrammetry be validated through an on-site meeting involving landowners and adjacent parties. This validation must be a mandatory part of the process to ensure the legitimacy of land boundaries in accordance with the *contradictoire delimitatie* principle.

The proposed implementation begins with an initial measurement using drones to quickly and accurately collect land boundary data. The results of these measurements are then presented at the land location, involving landowners and adjacent parties to validate the data's accuracy. Agreements among the parties are documented in an official report (*berita acara*), which serves as the legal foundation for the data's validity. Finally, the validated data is used in the process of issuing land certificates, ensuring that legal certainty is maintained.

Second, Ministerial Regulation of ATR/BPN Number 3/Juknis-HK.02/III/2023 needs to be adjusted by incorporating protocols that require the direct involvement of relevant parties in the final stages of measurement. The regulation should stipulate that initial data collected using drones cannot be used as the sole basis for issuing land certificates without manual verification in the field. This is crucial to uphold the principle of *rechtszekerheid* (legal certainty) for landowners and adjacent parties.

The use of drones in land measurement, as regulated by Ministerial Regulation of ATR/BPN Number 3/Juknis-HK.02/III/2023, represents a modern approach to enhancing the efficiency and accuracy of land registration. However, this regulation requires refinement to ensure that technological efficiency aligns with agrarian legal principles, particularly *rechtszekerheid* (legal certainty) and *contradictoire delimitatie*. (Ávila, 2016)

One of the main shortcomings of this regulation is the absence of mandatory provisions requiring on-site manual verification by landowners and adjacent parties. This raises the potential for violations of the principle of legal certainty, as the data produced by drones, while technically accurate, cannot fully represent the factual conditions that require agreement among the parties involved.

Regulatory refinement can be achieved by introducing protocols that mandate the direct involvement of relevant parties in the final stages of measurement. Initial data collected using drones should be treated as preliminary data that requires validation through field verification. In this process, landowners and adjacent neighbors must be present to confirm the validity of the measured land boundaries, under the observation of the Adjudication Committee for systematic land registration or officials from the Land Office for sporadic registration.(Aditya et al., 2020) Their agreement must be documented in an official report (*berita acara*), which serves as the legal basis for the issuance of the land certificate.

Third, the development of Standard Operating Procedures (SOPs) governing the use of modern technology is essential, including standards for measurement accuracy, drone usage permits, data protection, and field implementation oversight. These SOPs must be supported by clear accountability mechanisms, including administrative sanctions for violations.

Fourth, public outreach and training are needed for both the community and land officials to emphasize the importance of the *contradictoire delimitatie* principle and new procedures integrating technology. This education aims to increase public awareness of their rights and obligations in the land boundary designation process.

Fifth, implementation oversight must be strengthened by involving independent institutions to ensure that the new regulations are carried out in accordance with the principles of accountability and transparency. Through these measures, the proposed harmonization can deliver efficiency in land registration without compromising legal legitimacy and fairness for all parties involved.

4. Conclusion

Land boundary determination in Indonesia's land administration is a fundamental element that not only provides legal certainty for landowners but also prevents potential disputes that could harm the community. Article 18 of Government Regulation No. 24 of 1997 underscores the importance of the *contradictoire delimitatie* principle, requiring the direct presence of landowners and adjacent parties during the boundary determination process. This principle aims to ensure the validity of land boundary data through mutual agreement among the parties involved. However, with the introduction of technologies such as drones and photogrammetry, as regulated in Ministerial Regulation of ATR/BPN Number 3/Juknis-HK.02/III/2023, new challenges arise in harmonizing technological efficiency with agrarian legal principles.

The case study in Labokke Hamlet, Puty Village, Bua District, Luwu Regency, illustrates the implications of disregarding the *contradictoire delimitatie* principle. In this case, land measurement was conducted without the presence of the relevant parties, resulting in measurement outcomes that did not reflect the actual field conditions and triggering disputes between the landowner and adjacent parties. This case demonstrates that without the direct involvement of the parties, measurement results—even with modern technology can be questioned for their validity, leading to legal uncertainty and social conflict.

A proposed solution to address this issue involves regulatory revisions that integrate modern technology with the *contradictoire delimitatie* principle. Data obtained through drones can be used as preliminary data but must be validated through field verification involving landowners and adjacent parties. This validation must be witnessed by land officials and documented in an official report (*berita acara*). Furthermore, regulations

must establish operational standards for technology use to ensure transparency and accountability in land measurement.

Harmonizing modern technology with agrarian legal principles is key to creating an efficient land administration system while ensuring legal certainty. This approach not only leverages the advantages of technology but also safeguards the rights of the public as landowners, thereby supporting the overarching goals of the Complete Systematic Land Registration (PTSL) program to promote justice and welfare for all parties involved.

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FAMILY LEGAL RELATIONS IN THE CONTEXT OF GENDER EQUALITY: LEGAL PROTECTION OF WOMEN AND MEN

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Abstract

Gender equality in family legal relations remains a critically important topic in contemporary legal discourse, as traditional patriarchal models continue to influence judicial practice and social norms, despite legislative progress. In Ukraine and other countries, systemic issues persist: discrimination in child custody cases, unequal distribution of marital property, and insufficient effectiveness of domestic violence protection mechanisms. Research reveals a significant gap between formal equality guarantees and their practical implementation, exacerbated by socio-cultural stereotypes and institutional biases. The study is particularly relevant due to Ukraine's European integration processes and the need to harmonize national legislation with European standards. The article aims to provide a comprehensive analysis of family legal relations with a gender perspective, particularly in marriage, divorce, parenthood, custody, and property relations. The study seeks to identify systemic inequalities in the protection of women's and men's rights, assess the effectiveness of existing legal mechanisms, and develop recommendations for legislative improvement. An important aspect is the analysis of international experience (e.g., Sweden's parental leave system, Estonia's joint custody model, German family courts) to adapt best practices in Ukraine. The study employs a combination of methods: legal analysis of Ukrainian and international legislation (Constitution of Ukraine, Family Code, CEDAW, Istanbul Convention). Comparative legal method to assess EU approaches (Poland, Estonia, Germany, Sweden, Italy). Sociological analysis of statistical data (domestic violence rates, custody case rulings) and social survey results. Systematic and formal-logical methods to interpret legal norms in a socio-cultural context and identify contradictions. Inequality in law enforcement: despite legislative equality guarantees, 68% of real estate is registered under men's names, and in 70% of custody cases, courts award children to mothers. Judicial stereotypes: Only 15% of custody rulings favor fathers, reflecting conservative judicial approaches. Combating domestic violence: Only 8% of domestic violence cases result in convictions, and protective orders are often unenforced. International experience: Sweden (96% of men take parental leave), Estonia (electronic monitoring for aggressors), and Germany (joint custody) offer effective models for Ukraine. The impact of gender quotas in the judiciary on family dispute resolution. Economic incentives for shared parenting (tax benefits, subsidies). Educational programs on gender equality to counter stereotypes. Comparative analysis of post-Soviet countries' family law practices. The study demonstrates the need for systemic changes combining legislative reforms, improved law enforcement, and social awareness to achieve genuine gender equality in family relations.

Keywords: family legal relations; gender equality; discrimination; legal protection; family

1. Introduction

Family legal relations have always been an important subject of scientific research, as the family is the primary social institution that forms the foundation of society. In modern conditions, the issue of gender equality in family law is of particular importance, as traditional patriarchal models of family relations are gradually giving way to new approaches based on the principles of equality between women and men. However, despite significant progress in legislative guarantees of gender equality, both in Ukrainian and foreign legal contexts, problems persist, including gender-based discrimination, unequal distribution of family responsibilities, and insufficient mechanisms for protecting the rights of both genders. The relevance of this study lies in the need to analyze the current state of legal regulation of family relations with regard to the gender aspect, identify gaps in legislation, and develop recommendations for its improvement. The purpose of this article is to provide a comprehensive analysis of family relations in the context of gender equality, particularly examining the legal protection of women and men in matters of marriage, divorce, parenthood, custody, and property relations.

The issue of gender equality in family relations has been explored by scholars in various aspects. For example, in the works of O.M. Ponomarenko (2024) the problem of gender inequality in child custody after divorce is examined, where the author argues that judicial practice often favors mothers, which contradicts the principle of equal parental rights. A.V. Bogdanets, (2024) in their research, focuses on the property aspects of marital agreements, pointing out that women in Ukraine are more likely to find themselves in vulnerable positions due to insufficient awareness of their rights.

In the international context, G. Sobko (Sobko et al., 2024) analyzes the impact of the European Convention on Human Rights on the national legislation of EU countries regarding gender equality in family relations. The researcher concludes that while the legal framework is quite progressive, the practical implementation of these principles is complicated by socio-cultural stereotypes. M. Melnyk (Melnyk et al., 2023) explores the issue of domestic violence and the effectiveness of legal mechanisms for protecting women, emphasizing the need for stronger preventive measures.

The aim of this article is to examine the current state of legal regulation of family relations with regard to the gender aspect, as well as to identify ways to improve legislation to ensure equal rights for women and men. To achieve this goal, the following tasks must be addressed:

- analyze the legislative framework of Ukraine and international instruments on gender equality in family relations;
- examine judicial practice in cases related to gender discrimination in the family;
- identify key issues in ensuring equal rights for women and men in matters of marriage, parenthood, custody, and property relations;
- propose ways to enhance the effectiveness of legislative mechanisms for protecting gender equality in family relations.

The article employs a range of scientific methods, including:

- normative legal analysis – to study legislative acts regulating family relations;
- comparative legal method – to analyze international experience in gender equality;
- sociological method – to assess public opinion and practical aspects of the realization of women's and men's rights.

This study will help identify gaps in the legal protection of women and men in family relations and propose ways to improve legislative mechanisms. The results of the research may be used for further academic studies, as well as for refining family law

norms in line with the principles of gender equality.

2. Literature Review

Family legal relations in the context of gender equality are the subject of research by many scholars who analyze legislative guarantees of equality, socio-cultural factors of influence, and practical problems in the realization of the rights of women and men in family law. The research by T. Syroid (2023) (Kaganovska, & Syroid, 2023) is dedicated to the analysis of international gender equality standards, particularly the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The author argues that Ukrainian family legislation complies with international norms; however, in practice, contradictions persist due to traditional stereotypes regarding the roles of men and women in the family. I. Kovalchuk (2024) focuses on constitutional guarantees of equality (Article 24 of the Constitution of Ukraine (1996) and their impact on family legal relations. The researcher notes that formal equality does not always ensure real protection of rights, especially in matters of child custody after divorce, where preference is often given to the mother. A. Bohdanets (2024) explores the problems of protecting women from domestic violence, particularly in the context of the Law of Ukraine «On Prevention and Combating Domestic Violence» (Law of Ukraine No. 2229-VIII..., 2018). The author emphasizes that despite progressive norms, the effectiveness of protection mechanisms remains low due to women's insufficient awareness of their rights and the inefficiency of law enforcement. Y. Hrytsenko (2024) analyzes gender aspects of spouses' property rights, pointing out that women often find themselves in a vulnerable position due to unregistered joint ownership. The researcher proposes changing the approach to property division after divorce by taking into account women's contributions to household management and child-rearing.

D. Lysenko (2024) explores discriminatory aspects in the exercise of fathers' parental rights. The researcher notes that judicial practice often automatically grants custody of children to mothers, even in the absence of objective reasons to restrict the father's parental rights. L.R. Nalyvaiko and L.V. Martseniuk (2022) analyzes issues related to alimony obligations, particularly the excessive financial demands placed on men after divorce. The author emphasizes the need for a more flexible approach to calculating alimony, taking into account the financial circumstances of both parents. G. Sobko (Sobko et al., 2024), examines the influence of traditional stereotypes on legal practice in her scholarly works. She argues that judges and child welfare authorities often rely on patriarchal notions, which undermines gender equality. V. Sydorenko (2024) analyzes the role of civil society organizations in promoting gender equality, particularly their impact on legislative reforms.

Analysis of scholarly sources indicates that while Ukrainian legislation formally ensures gender equality in family legal relations, significant practical issues persist due to sociocultural stereotypes, ineffective protection mechanisms, and an imbalance in the realization of rights between women and men. Further research should focus on identifying ways to strengthen legal protections for both genders in family law.

3. Materials and Methods

The article examines family legal relations in the context of gender equality, aiming to identify contemporary issues in the legal protection of women and men and to substantiate ways to address them. To achieve this goal, a set of scientific methods was employed, enabling a comprehensive analysis of the legal framework and sociological data. The research is based on the following key materials:

Regulatory and legal acts:

- Constitution of Ukraine (articles 24, 51, 52);
- Family Code of Ukraine;
- Civil Code of Ukraine;

- Law of Ukraine «On Prevention and Combating Domestic Violence»;
- International instruments (CEDAW, Istanbul Convention).

Scientific publications:

- monographs and articles on gender equality in family law;
- sociological survey data on societal attitudes toward the roles of men and women in the family.

Sociological data:

- official statistics from the Ministry of Social Policy of Ukraine on domestic violence;
- survey results from civil society organizations («La Strada-Ukraine»).

To ensure scientific objectivity and a comprehensive analysis, the following methods were used:

General scientific methods:

- systemic analysis allowed for the examination of family legal relations as a complex system encompassing legal, social, and cultural aspects;
- formal-logical method was applied to interpret legal norms and identify contradictions in legislation;
- comparative legal method enabled a comparison of Ukrainian legislation with international gender equality standards.

Special legal methods:

- normative legal analysis – examining legislative acts for compliance with gender equality principles;
- legal hermeneutics – interpreting legal norms considering sociocultural context.

The research was conducted in several stages:

- theoretical-methodological stage (defining the purpose, objectives, and justifying the methods);
- legislative analysis (studying Ukrainian laws and regulations);
- synthesis of results (formulating conclusions and proposals for legislative improvements).

The comprehensive approach combined legal analysis with sociological data, ensuring more objective results.

The applied methods allowed for an in-depth exploration of gender equality issues in family legal relations and the proposal of solutions. The most effective approaches proved to be the combination of normative legal analysis and sociological research, which provided a deeper understanding of the problem.

3. Results and Discussion

Gender equality in family law is one of the key principles of modern democratic society. It entails equal rights, responsibilities, and opportunities for women and men in marital, parental, and property relations. Despite progress in legally enshrining gender equality, the practical implementation of this principle faces a number of sociocultural, economic, and legal barriers. Gender equality in law is based on the following fundamental principles: formal equality – the prohibition of discrimination based on sex (e.g., in inheritance or marital rights); substantive equality – accounting for historical inequality and introducing mechanisms to level opportunities (e.g., quotas in custody cases); gender-sensitive approach – analyzing the impact of legal norms on women and men, taking into account social roles (Markovich & Shardakova, 2024). In family law, these principles are implemented through: equal spousal rights to property, divorce, and child-rearing; protection against domestic violence; mechanisms to compensate for gender asymmetry (e.g., alimony). International instruments (CEDAW, the Istanbul Convention) define gender equality as a mandatory standard. In Ukraine, the Constitution (Art. 24) (Constitution of Ukraine, 1996) and the Family Code (Family Code of Ukraine, 2002) enshrine equal rights, yet contradictions persist in practice: men more frequently own real estate, which affects property division during divorce; judicial

bias in favor of mothers in 70% of custody cases; domestic violence: 85% of victims are women, yet only 20% of cases reach court.

T. Moroz notes that gender relations in the family have always reflected the social, economic, and cultural realities of society. From patriarchal traditions to modern democratic principles, the legal regulation of family relations has undergone a long path of transformation (Sobko et al., 2024). In ancient societies (Babylon, Ancient Rome, Medieval Europe), family relations were built on the principles of the absolute authority of the man (*pater familias* in Latin). The Code of Hammurabi (18th century BC) – A husband could divorce without explanation, while a woman had no such right. Roman law – A woman was under the guardianship of her father or husband (*manus mariti*) and could not own property independently. Christian canon law – Marriage was considered sacred, but a woman had to obey her husband.

In summary, it can be concluded that a woman was legally a minor, and the family was a hierarchical structure headed by a man.

With the development of capitalism and the Enlightenment, the first attempts to equalize spousal rights emerged. For instance, the Napoleonic Code (1804) proclaimed equality among citizens but kept women under the authority of their husbands (mandatory obedience, limited property rights). The English Married Women's Property Act (1870, 1882) for the first time allowed women to own property after marriage. These reforms began to dismantle the patriarchal model, but gender inequality remained significant. After World War II, the modern concept of gender equality began to take shape. The period (1917–1991) saw the proclamation of gender equality but the preservation of traditional roles (women worked while also raising children). The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979) recognized women's family rights as part of human rights. In Ukraine (1990s–2000s), the Family Code (2002) formally established spousal equality, but in practice, a judicial bias in favor of mothers in child custody cases persisted. Thus, states began actively incorporating gender equality into laws, but social stereotypes hindered its implementation (Bogdanets, 2024). At this stage, the main trends include combating domestic violence, advocating for LGBTQ+ rights, and balancing work and family life. The Istanbul Convention (2011) criminalized domestic violence and promoted gender-oriented programs (Cherneha, 2023). Scandinavian countries have introduced policies such as parental leave for men and shared custody after divorce.

The modern system of international law forms a comprehensive mechanism for protecting gender equality, particularly in the sphere of family relations. Instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Istanbul Convention have become key tools for transforming national legislations. Adopted by the UN General Assembly, CEDAW was the first international document to comprehensively regulate women's rights in all spheres, including family relations. Article 5 requires the elimination of stereotypical perceptions of the roles of men and women in the family (Markovich & Shardakova, 2024). Article 16 enshrines equal rights in marriage and family relations, including: the right to enter into marriage; the right to divorce; equal rights concerning children; equal property rights. The Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention) marked a revolutionary step in protecting women's rights in family relations (Cherneha, 2023). Its innovative provisions include: prevention, protection of victims, and prosecution; recognition that violence against women stems from structural inequality; the Beijing Declaration and Platform for Action (1995) recognized domestic violence as a human rights violation and proposed strategies for changing social norms.

Gender equality is a constitutional principle of Ukraine and a component of the country's European course. However, its legal consolidation in national legislation

remains incomplete, and its implementation faces systemic obstacles. For instance, Article 24 of the Constitution of Ukraine explicitly prohibits discrimination based on sex and guarantees equal rights for women and men (Constitution of Ukraine, 1996). Yet, this provision is largely declaratory, lacking enforcement mechanisms. Ukraine has ratified key international instruments: CEDAW (1980) – obligations to eliminate discrimination in family law; Istanbul Convention (2022) – combating domestic violence; EU Association Agreement (2014) – harmonizing legislation with European standards. The Family Code of Ukraine formally upholds spousal equality: Art. 51: Spouses have equal rights and responsibilities (Family Code of Ukraine, 2002); Art. 57: Property acquired during marriage is jointly owned; Art. 141: Parents have equal rights in child upbringing. However, in practice: courts often favor mothers in custody cases (~70% of rulings). Traditional stereotypes influence property division (men more often receive businesses, while women are awarded household assets). The Law of Ukraine «On Prevention of Domestic Violence»: introduced the term «domestic violence»; established emergency protection orders; created mobile assistance teams for victims (Law of Ukraine No. 2229-VIII..., 2018). Under the Labor Code: discrimination in employment is prohibited (Art. 2) (ZMINA, 2025), yet women earn ~23% less on average (State Statistics Service, 2023). The Criminal Code: Art. 126-1 criminalizes domestic violence, but police often classify assaults as «petty hooliganism.» The Law of Ukraine «On Political Parties» requires ≥30% women in electoral lists, yet women make up only 20.8% of MPs in the Verkhovna Rada (ZMINA, 2025).

As previously noted, family legal relations in Ukraine are formally based on the principles of gender equality enshrined in the Constitution and the Family Code. However, in practice, the implementation of these principles faces a number of systemic problems related to social stereotypes, imperfect legislation, and weak mechanisms for protecting rights. For instance, according to Article 57 of the Family Code, property acquired by spouses during marriage is their joint property (Family Code of Ukraine, 2002). Yet, in practice, significant gender disparities persist: 68% of real estate is registered under men's names (State Statistics Service, 2023), and women are less involved in financial decision-making (only 32% of cases, according to the NBU, 2023). In the sphere of non-property rights (child-rearing, division of responsibilities), the situation also remains unequal: women spend three times more time on childcare, and only 5% of men exercise their right to parental leave. During divorce, the most contentious issues are alimony obligations: 72% of alimony cases are initiated against men, and the average alimony payment amounts to only 30% of the child's subsistence minimum. Property division: in 85% of cases, disputes are resolved through settlement agreements, but women often concede business assets in exchange for retaining housing. Child custody: only 15% of court rulings leave children with fathers, indicating a conservative judicial approach. Statistics show an increase in domestic violence cases. In 2023, 160,000 complaints were registered (45% involving physical violence), yet only 8% of criminal cases under Art. 126-1 of the Criminal Code result in a conviction. Despite the introduction of protection orders (25,000 issued in 2023), their effectiveness remains low—12% of offenders ignore the restrictions (ZMINA, 2025).

Gender equality is one of the fundamental principles of the European Union, reflected both in its legal framework and in the social policies of its member states. Over the past decades, the EU has developed a comprehensive approach to ensuring equal rights and opportunities for women and men, covering various areas—from the labor market to family relations. Unlike Ukraine, where gender equality often remains a formal principle, EU countries implement this concept through concrete mechanisms: mandatory gender quotas, transparent pay algorithms, a well-developed system of protection against domestic violence, and support for parenthood. Particular attention is paid to balancing professional and family life, as reflected in policies on parental leave and the development of childcare infrastructure (Cherneh, 2023). The EU's experience

is of particular interest to Ukraine, which, on its path to European integration, must align its legislation with European standards. Analyzing European practices will help identify effective models that can be adapted to Ukrainian realities, taking into account cultural and socio-economic specifics.

Poland, as a country with a rich cultural heritage and modern European aspirations, demonstrates an interesting experience in combining traditional family values with contemporary approaches to gender equality. Despite the strong influence of the Catholic Church, which traditionally supports a patriarchal family model, Poland has taken significant steps in recent years to harmonize family law with European standards (Kaganovska & Syroid, 2023). The Polish Constitution of 1997 guarantees equal rights for women and men in all areas of life (Article 33). In family law, this principle is implemented through: the Family and Guardianship Code, which enshrines equal rights for spouses in marriage; the Act on Counteracting Domestic Violence (2005, with subsequent amendments); the Labor Code, which provides equal opportunities for parents. However, research shows a significant gap between formal norms and social practice. Polish legislation recognizes the principle of joint ownership of property acquired during marriage. Yet, in practice, only 35% of real estate is registered under women's names (GUS, 2023). In the case of divorce, women often retain housing but lose rights to business assets (ZMINA, 2025). The credit system still contains hidden discriminatory mechanisms against women. Poland has also introduced progressive parental leave policies: 32 weeks of paid leave can be shared between parents. «Daddy weeks» – a mandatory two-week leave for fathers. However, only 6% of men take full advantage of parental leave, indicating the persistence of traditional stereotypes. Poland's experience in combating domestic violence includes: specialized family courts; rehabilitation programs for perpetrators; a network of crisis centers, etc. Yet, the effectiveness of these measures remains limited: only 15% of domestic violence cases reach court. The average case processing time is 18 months.

Estonia, as a leading country in the Baltic region, has become a striking example of successful integration of gender equality principles into family legal relations in recent years. This nation, which combines innovative digital solutions with progressive social legislation, demonstrates impressive results in ensuring equal rights and opportunities for women and men in the family sphere. The Estonian legal system is based on a strong constitutional foundation. Article 12 of the Estonian Constitution explicitly prohibits discrimination based on sex, while Article 27 guarantees spousal equality in marriage (Bogdanets, 2024). Particular attention should be paid to the Estonian Family Code, which underwent significant amendments in 2021 aimed at: establishing the principle of joint custody as the standard practice; introducing automatic property division (50/50) upon divorce; expanding men's rights to parental leave. An important step was the ratification of the Istanbul Convention in 2017, which was reflected in the Domestic Violence Act (2021) (Ponomarenko, 2024). This law provides for: rapid issuance of protection orders; electronic monitoring bracelets for aggressors; specialized family courts.

Let us note that the Estonian model is distinguished by its comprehensive approach to supporting families. Particularly noteworthy is the parental leave system, which includes: 480 days of paid leave, which can be distributed between parents; a 30-day «father's month», reserved exclusively for men; additional benefits for parents who use more than half of the leave. According to Statistics Estonia (Kaganovska & Syroid, 2023), this system has yielded significant results: the proportion of men taking parental leave increased from 40% in 2020 to 65% in 2023; 89% of child custody cases are resolved in favor of joint custody; 95% of children aged 1.5 years and older are enrolled in preschool education. Estonia's experience in combating domestic violence also deserves special attention. Between 2021 and 2023, a series of innovative solutions were implemented: electronic bracelets for offenders (2022) – a GPS monitoring system preventing violations of restraining orders; a digital platform for anonymous consultations and reporting; a

network of crisis centers (22 facilities nationwide).

Despite significant progress, Estonia faces certain challenges: regional disparities: 80% of social services are concentrated in Tallinn; traditional stereotypes: 30% of the population still supports the patriarchal family model. For 2025-2027, the country has planned: expansion of mobile service networks for rural areas; introduction of gender education in school curricula; further digitalization of family services. Germany, as one of the most developed countries in the European Union, has established a comprehensive legal framework for regulating family relations based on the principles of gender equality. The German experience combines traditional family values with modern approaches to protecting the rights of women and men, making it particularly valuable for study. The German legal system ensures gender equality through: the German Constitution (Basic Law): article 3: Guarantees equal rights for men and women; article 6: Protects the family as the foundation of society. The German Civil Code (BGB): equal rights for spouses in marriage (§1353 BGB); joint custody of children as the standard (§1626a BGB); fair division of property in divorce (§§1363-1568 BGB). Special laws: parental Allowance Act (Elterngeldgesetz); gender Equality Act (Gleichstellungsgesetz). An important milestone was the introduction of «Marriage for All» (Ehe für alle) in 2017, which legalized same-sex marriage. Germany also implements several unique programs: parental leave system: 14 months of paid leave (65% of salary); 2 «bonus months» reserved for the second parent. Child benefits: €250 per month per child (Kindergeld); income tax relief for families.

The German approach to combating domestic violence includes: legal measures – the Protection Against Violence Act (Gewaltschutzgesetz); rapid issuance of restraining orders; practical mechanisms – a network of over 400 women's shelters; rehabilitation programs for aggressors. The German experience demonstrates that combining strict legislation with social programs yields the best results. Financial support for families is a key factor in achieving gender equality. Systemic efforts to combat stereotypes require time but deliver long-term effects.

Sweden is recognized as a global leader in gender equality, which is reflected in its unique model of family relations. The country combines progressive legislation with effective social mechanisms, creating an exemplary system for protecting the rights of women and men in the family sphere. The Swedish model is based on the following legislative acts: Constitution of Sweden (1974): Chapter 1, §2 – prohibition of gender discrimination; Chapter 2, §15 – equality in marriage and family relations; Family Code (Föräldrabalken): Mandatory joint custody of children (since 1998). Automatic 50/50 division of property in divorce. Equal rights to parental leave; Gender Equality Act (2006): Mandatory gender quotas in government bodies. Mechanisms to combat sexism in the family (Markovich & Shardakova, 2024). Sweden has implemented a unique family support system: parental leave: 480 days (with 90 days reserved for each parent); 80% of salary (up to €1,000/month); 96% utilization rate by men (2023); childcare infrastructure: 98% of children aged 1-5 enrolled in preschools; maximum fee – 3% of family income; tax benefits: Individual taxation for spouses; deductions for childcare services.

Sweden has developed a comprehensive system to combat domestic violence. Legal measures: the Prohibition of Corporal Punishment of Children Act (1979). Specialized family courts (since 2021). Prevention programs: a network of 150 crisis centers. Mandatory rehabilitation programs for perpetrators. The Swedish experience demonstrates that strict legislation must be combined with social incentives. Equality within the family is achieved through equality in labor relations. Prevention is more effective than punishment.

Italy showcases a unique approach, blending conservative family values with modern European gender equality policies. Notably, the Italian legal system has undergone significant reforms over the past decade: Constitutional guarantees: article 3 of the Italian Constitution prohibits sex-based discrimination. Article 29 recognizes the family as a natural union based on marriage. Civil Code reforms: the 2015 reform

abolished the concept of the «head of the household.» Equal parental rights in child-rearing were established (Art. 316). The term «shared family residence» replaced «wife's residence.» Special laws: the Civil Unions Act (2016) – legalized same-sex partnerships. The Femicide Law (2013) – strengthened penalties for gender-motivated crimes.

Italy has developed a series of innovative programs: parental Leave – 10 months of paid leave (with 1 month reserved exclusively for the father); 30% of men use their right to leave (2023). Childcare Infrastructure – Only 27% of children aged 0-3 have access to preschool (North – 40%, South – 15%). «Bonus Mamma» – €1,000 bonus upon the birth of a child. Tax Benefits – «Family Coefficient» in taxation. Deductions for kindergartens and schools. To combat domestic violence, Italy has developed a unique model: legal Tools: «Red Code» (2019) – an accelerated procedure for victim protection. Mandatory programs for aggressors. Social Infrastructure: the country has 85 anti-violence centers and a network of «anti-violence shelters.» The Italian experience demonstrates a gradual shift from a patriarchal model to a modern one. Key takeaways include: the importance of a regional approach to gender policy. The effectiveness of combined measures (legal, social, and cultural).

Ukraine, in its pursuit of European integration, faces the need to reform family legislation in line with the principles of gender equality. The experiences of Poland, Estonia, Germany, Sweden, and Italy offer valuable models that could be adapted to Ukrainian realities. Sweden, a global leader in gender equality, provides an exemplary model of parental leave. Here, 480 days of paid leave are divided between both parents, with 90 days reserved exclusively for the father (Ponomarenko, 2024). This has led to 96% of Swedish men participating in childcare. For Ukraine, such an approach could be a key step in overcoming stereotypes about «women's» and «men's» roles in the family. Germany, on the other hand, demonstrates an effective system of joint child custody. German legislation stipulates that after a child's birth, both parents automatically receive equal rights and responsibilities in their upbringing. Additionally, specialized family courts and mediation institutions help minimize conflicts during divorces. Ukraine should implement similar mechanisms to reduce the number of legal disputes and safeguard children's best interests. This reform could contribute to a more equitable society while aligning Ukraine with European standards in family policy.

The Estonian experience is particularly useful in the field of combating domestic violence. Innovative technologies, such as electronic bracelets for aggressors, are actively used to monitor their proximity to victims. Additionally, Estonia is developing online services for filing applications for protection orders and consultations with psychologists. Such solutions could significantly improve the effectiveness of combating domestic violence in Ukraine, where this issue remains acute. Poland demonstrates how traditional family values can be combined with modern European approaches. Polish legislation takes into account the conservative views of part of society while gradually introducing mechanisms to protect the rights of women and children. This experience is particularly relevant for Ukraine, where regional differences in attitudes toward gender equality also exist. Despite the strong influence of traditional values, Italy has made significant progress in combating domestic violence. The «Red Code» is a special procedure that allows for the rapid issuance of protection orders and ensures the safety of victims. Ukraine should adopt this mechanism, especially considering that many women in the country still hesitate to seek help due to fear or distrust of law enforcement agencies.

To implement these European practices, Ukraine needs to: first, adopt a parental leave law modeled after Sweden's; second, establish specialized family courts, like those in Germany; third, introduce digital tools to combat domestic violence, as Estonia has done. Additionally, it is crucial to run public awareness campaigns aimed at breaking stereotypes and increasing knowledge about the rights of women and men in the family. European experience proves that gender equality in family relations is not an abstract idea but an achievable reality, made possible through well-designed legislative

measures and social initiatives. Ukraine has every chance to successfully adapt these practices by combining European standards with national specifics. The key factors are political will, public support, and systematic work toward change.

4. Conclusions

Family legal relations in the context of gender equality are a key element of the modern legal framework, as they directly impact the protection of the rights of women and men in the spheres of marriage, parenthood, custody, property relations, and social guarantees. Research by T. Kahanovska and T. Siroid demonstrates that although the legislation of many countries formally enshrines gender equality, in practice, gender stereotypes and historically entrenched inequalities continue to influence legal enforcement. One of the most critical areas where gender inequality persists is marital relations. Despite proclaimed spousal equality, women often face discrimination, particularly in matters of property division after divorce. Many women who have dedicated themselves to childcare and household management find themselves in a vulnerable position due to the lack of personal income, which complicates their access to a fair division of shared property. At the same time, men may encounter bias in child custody cases, as judicial practice in many countries traditionally favors mothers. This highlights the need for a more objective approach to resolving such issues, taking into account the interests of both parents and the child. In the sphere of parental rights and responsibilities, significant gender disparities are also observed. On the one hand, women often bear the primary burden of childcare, which can limit their professional opportunities. On the other hand, men who wish to take a more active role in child-rearing sometimes face obstacles due to outdated perceptions of the «primary breadwinner.» An important aspect of gender equality in family legal relations is protection against domestic violence. Women traditionally remain the primary group of victims, but men can also experience violence, which often goes unnoticed due to social taboos.

The experience of the European Union member states in regulating family legal relations in the context of gender equality can serve as an important benchmark for Ukraine in harmonizing its national legislation with European standards. In the EU, the priority is to ensure equal rights and opportunities for women and men in family relations, which includes: equal access to divorce and child custody; fair distribution of property during marriage dissolution; effective mechanisms to combat domestic violence; and support for work-life balance. Ukraine has already taken certain steps in this direction, particularly through family law reforms, the implementation of the Convention on Preventing and Combating Violence Against Women (Istanbul Convention), and enhanced social guarantees for parents. However, to achieve full gender equality, it is necessary to: improve legislation by introducing clear mechanisms to protect the rights of women and men, especially in child custody and alimony obligations; develop institutional mechanisms, such as specialized family courts and social support services for victims of violence; raise public awareness of gender equality through education and media; and strengthen international cooperation to exchange best practices from the EU in family rights protection. Integrating European approaches into Ukraine's legal framework will not only help fulfill international obligations but also contribute to building a modern, fair society where the family is a space of mutual respect and equality.

The given article has scientific value, as the study of gender equality in family legal relations reflects contemporary social and legal challenges caused by changes in family legislation and public consciousness. This research combines legal, sociological, and gender analysis, contributing to a comprehensive understanding of the issue. The recommendations provided in the article can be used to improve legislation, law enforcement practices, and social policy. The authors of the article propose new approaches to interpreting gender equality in family law, particularly regarding the

protection of the rights of both genders in matters of marriage, divorce, child custody, etc.

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THE DYNAMICS OF JUDICIAL INDEPENDENCE IN CORRUPTION SENTENCING: BETWEEN JUDICIAL DISCRETION AND THE PRINCIPLE OF LEGAL CERTAINTY

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Abstract

Corruption remains a fundamental issue in Indonesia, particularly regarding disparities in sentencing for corruption cases under Articles 2 and 3 of the Corruption Law. To address this issue, the Supreme Court issued Regulation No. 1 of 2020 (PERMA 1/2020) as a guideline for sentencing corruption offenders. This study aims to analyze the legal consequences of PERMA 1/2020 and its impact on judicial independence in corruption cases. Using a normative juridical method, the research examines legal principles, statutory regulations, and case studies. The findings indicate that while PERMA 1/2020 provides structured sentencing guidelines, disparities still occur due to judicial discretion. The case analysis of Decision No. 16/Pid.Sus-TPK/2023/PN.Smg reveals that the sentencing aligns with the imprisonment guidelines but deviates from the prescribed financial penalties. This study concludes that although PERMA 1/2020 enhances legal certainty, its application remains subject to judicial interpretation, raising questions about its consistency in corruption sentencing.

Keywords: judicial independence; corruption crimes; sentencing guidelines; state financial losses; bribery.

1. Introduction

Corruption has long been a fundamental issue in Indonesia's legal system, significantly impacting various sectors, particularly the economy and governance. Corruption undermines the principles of justice, hampers economic growth, and diminishes public trust in state institutions. Transparency International, through the Corruption Perception Index (CPI), indicates that Indonesia continues to face serious challenges in combating corruption, as reflected in its score, which highlights negative public perceptions of the integrity of the public sector. On an international scale,

the United Nations Convention Against Corruption (UNCAC) asserts that corruption is a systemic threat that can erode democracy, the rule of law, and human rights. Consequently, combating corruption has become a primary priority for various countries, including Indonesia, which has implemented numerous regulations and legal policies to control corrupt practices (Butt et al., 2024).

In the national legal context, corruption is comprehensively regulated under Law of the Republic of Indonesia No. 31 of 1999 on the Eradication of Corruption, as amended by Law No. 20 of 2001. Articles 2 and 3 of the Corruption Law (UU Tipikor) are the most frequently applied provisions in prosecuting corruption cases, as they define state financial losses as the primary element of corruption offenses. However, the substance of these provisions underwent a fundamental shift following Constitutional Court Decision No. 25/PUU-XIV/2016, which transformed these articles from formal offenses to material offenses by removing the word “potential” from their wording. As a result, proving actual state financial losses became a mandatory requirement in corruption cases (Yunan et al., 2023).

In practice, judges often face dilemmas when delivering verdicts in corruption cases. Differences in interpreting Articles 2 and 3 of UU Tipikor have frequently led to significant sentencing disparities. To address these inconsistencies and provide standardized sentencing guidelines, the Supreme Court issued Supreme Court Regulation No. 1 of 2020 (PERMA 1/2020) on Sentencing Guidelines for Articles 2 and 3 of the Corruption Law. This regulation aims to standardize sentencing in corruption cases by requiring judges to consider three main aspects: guilt, impact, and benefits obtained by the defendant (Husma et al., 2018). However, debates have emerged regarding the existence of judicial independence in determining verdicts based on substantive justice considerations. According to Article 24(1) of the 1945 Constitution and Article 3(1) of the Judicial Authority Law, judges possess independence in enforcing the law and delivering justice without external intervention.

Previous studies have examined the role of PERMA 1/2020 in reducing sentencing disparities in corruption cases. Some research highlights that the regulation provides a more predictable legal framework, while others criticize it for restricting judicial discretion in evaluating the specific circumstances of each case. This study seeks to fill the research gap by analyzing five court decisions that have become legally binding (*inkracht*) to assess the extent to which PERMA 1/2020 affects judicial independence in sentencing corruption cases. Thus, this research not only evaluates the effectiveness of PERMA 1/2020 but also examines the broader issue of judicial independence in the enforcement of corruption laws in Indonesia.

The urgency of this research lies in the need to balance the application of sentencing guidelines with the principle of judicial independence. On the one hand, PERMA 1/2020 aims to eliminate sentencing disparities in corruption cases, yet on the other, its enforcement may potentially restrict judges' authority in exercising substantive justice. Therefore, this research is relevant in assessing whether PERMA 1/2020 serves as a binding guideline or merely a reference for judges in sentencing corruption cases.

Based on the background described above, this study aims to address the following legal question: To what extent does PERMA 1/2020 influence judicial independence in sentencing corruption cases under Articles 2 and 3 of UU Tipikor? By analyzing five different court rulings, this research will assess the degree of PERMA 1/2020's implementation, the extent to which judges maintain their judicial independence in delivering sentences, and whether this regulation contributes to sentencing standardization or creates new challenges in enforcing corruption laws in Indonesia.

2. Material and Methods

This research adopts a normative juridical approach, which focuses on examining the application of legal norms and principles within the framework of positive law

(Irwansyah, 2020). This approach aims to analyze existing legal regulations and how these legal norms are implemented in specific contexts. To achieve its objectives, this study employs several research approaches, namely the statute approach, conceptual approach, and case approach. The statute approach involves analyzing relevant legal regulations to understand the legal foundation applied in sentencing corruption cases (Marzuki, 2011). The conceptual approach is used to explore legal theories related to judicial independence and sentencing standards, while the case approach examines the application of the law in court decisions that have attained final and binding status.

This study utilizes three types of legal materials: primary, secondary, and tertiary legal sources (Zuhdi et al., 2025). Primary legal sources serve as the main authoritative references in the legal system, as defined by Peter Mahmud, including statutory regulations and jurisprudence related to corruption sentencing. Secondary legal sources support the understanding and analysis of legal aspects under study. These sources consist of various academic works, such as theses, dissertations, journal articles, and books on criminal procedural law and pre-trial procedures. Additionally, this research refers to tertiary legal sources, such as legal dictionaries, the Great Dictionary of the Indonesian Language (KBBI), and Black's Law Dictionary, which are used to clarify legal terminology and deepen the conceptual understanding relevant to this study. By incorporating a comprehensive set of legal sources, this research aims to provide an in-depth analysis of judicial independence in sentencing corruption cases based on Supreme Court Regulation No. 1 of 2020.

3. Results and Discussion

3.1. Supreme court regulations in the legal system

Legal sources have various meanings depending on the perspective from which they are viewed. In general, legal sources refer to anything that gives rise to binding and enforceable rules. According to Van Apeldoorn, legal sources can be categorized into four types: historical, sociological, philosophical, and formal (Katz & Katz, 1975). Historical legal sources refer to places where laws can be found throughout history, whether in the form of ancient documents or legal records used by lawmakers. Sociological legal sources relate to social factors that influence the substance of positive law, such as religious values, culture, and social conditions (Damian & Hornick, 1972). Philosophical legal sources discuss the origins of law and the reasons why laws have binding force. Meanwhile, formal legal sources include legally binding forms of law, such as statutes and other regulations. The difference between laws and legal regulations lies in their formation process, where laws are made by the House of Representatives (DPR) with the approval of the President, whereas legal regulations are issued by various institutions with authority, such as the government and the Supreme Court (Katz & Katz, 1975).

Historical legal sources refer to documents, records, and artifacts that provide insight into the development of legal systems over time. These sources include ancient legal codes, customary laws, judicial precedents, and legislative archives that have shaped modern legal principles. They serve as references for contemporary lawmakers and legal scholars seeking to understand the origins of legal doctrines and their adaptation over different historical periods. Sociological legal sources, on the other hand, emphasize the role of societal factors in shaping laws. These include cultural traditions, religious beliefs, economic structures, and political ideologies that influence legal norms and their application. The dynamic relationship between law and society highlights how legal norms evolve in response to changing social conditions, demonstrating that law is not a static institution but an adaptive mechanism that reflects societal values and expectations.

Philosophical legal sources delve into the fundamental questions of why laws exist and what justifies their authority. These sources examine legal theories, moral philosophies, and ethical frameworks that underpin legal systems. Concepts such as

natural law, positivism, and legal realism fall within this category, providing different perspectives on the legitimacy and purpose of legal rules. Meanwhile, formal legal sources constitute the legally binding instruments that establish enforceable norms, such as constitutions, statutes, government regulations, and judicial decisions. The key distinction between laws and legal regulations lies in their legislative process; while laws are enacted by the House of Representatives (DPR) with presidential approval, legal regulations are issued by various governmental and judicial institutions with delegated authority. Together, these legal sources form a comprehensive structure that ensures the stability, adaptability, and legitimacy of a functioning legal

The development of the national legal system requires strengthening in three main aspects: legal substance, legal structure, and legal culture. To establish an effective legal system, a systematic and comprehensive study is needed on the formulation of legal regulations that align with the objectives of a country's legal framework. In the context of the hierarchy of legal regulations, the theories of Hans Kelsen and Hans Nawiasky form the foundation of Indonesia's legal hierarchy model. Nawiasky's theory, known as *Theorie von Stufenaufbau der Rechtsordnung*, structures legal norms into several levels, namely fundamental state norms that serve as the foundation for the constitution, basic state rules contained in the constitution, formal laws that are legally binding, and implementation regulations and autonomous regulations that have a more technical nature.

Law No. 12 of 2011 on the Formation of Legislative Regulations, as amended by Law No. 15 of 2019 and Law No. 13 of 2022, establishes the hierarchy of legal regulations, which consists of the 1945 Constitution of the Republic of Indonesia, People's Consultative Assembly Decrees, Laws or Government Regulations in Lieu of Laws, Government Regulations, Presidential Regulations, Provincial Regional Regulations, and Regency/Municipal Regional Regulations (Hadi & Michael, 2022). Additionally, Article 8 of the Law on the Formation of Legislative Regulations states that other types of legal regulations, including those issued by the Supreme Court, have binding legal force as long as they are mandated by a higher regulation or established based on legitimate authority.

As a judicial institution, the Supreme Court plays a crucial role in addressing various legal issues, including legal loopholes and procedural law reform. In carrying out its duties, the Supreme Court has the authority to issue regulations in the form of Supreme Court Regulations (PERMA) and Supreme Court Circular Letters (SEMA). Initially, SEMA functioned as a supervisory instrument, but over time, its role has expanded to include administrative regulations and other legal aspects. Meanwhile, PERMA holds stronger legal authority, particularly in setting guidelines for judicial institutions and other law enforcement bodies such as the police and prosecutors. A notable example of a widely applicable PERMA is PERMA No. 13 of 2016 on Procedures for Handling Criminal Cases Involving Corporations, which mandates law enforcement agencies to adhere to the guidelines set by the Supreme Court (Suhariyanto, 2018).

The issuance of PERMA each year demonstrates its effectiveness in meeting the needs of Indonesia's judiciary. These regulations must align with the principles of legal certainty and substantive justice and be published in the State Gazette of the Republic of Indonesia to ensure public accessibility and awareness of their implications. The principle of *presumptio iures de iure* asserts that every individual is presumed to know the law once it is promulgated, making ignorance of the law an unacceptable excuse for avoiding legal consequences.

The Supreme Court bears a significant responsibility in maintaining the balance between justice and legal certainty. Although many reforms have been undertaken, several challenges remain, including improving efficiency, strengthening integrity, and ensuring consistency in legal implementation. To reinforce its role as the guardian of legal supremacy, the Supreme Court must ensure that each regulation it issues not only fulfills procedural aspects but also prioritizes substantive justice for society. With

continuous reforms and a strong commitment to just legal principles, the Supreme Court can continue to play a strategic role in establishing a transparent and responsive legal system that meets the evolving needs of the public.

3.2. Supreme court regulations and their implementation

The classification of legal regulations, as outlined in Article 8(1) of the Law on the Formation of Legislative Regulations, includes regulations issued by the People's Consultative Assembly (MPR), House of Representatives (DPR), Regional Representative Council (DPD), Supreme Court (MA), Constitutional Court (MK), Supreme Audit Agency (BPK), Judicial Commission (KY), Bank Indonesia (BI), and other relevant institutions (Hidayat et al., 2022). One of the regulations established under this provision is the Supreme Court Regulation (PERMA), which is derived from Article 79 of Law No. 14 of 1985 on the Supreme Court (hereinafter referred to as the Supreme Court Law). This article grants the Supreme Court the authority to issue regulations to fill legal gaps encountered in judicial proceedings. This regulatory function allows the Supreme Court to establish procedural guidelines for issues not yet regulated under existing legislation.

According to Article 8(1) of the Law on the Formation of Legislative Regulations, PERMA is categorized as a type of legislative regulation. Based on its substantive content, there are two main types of PERMA. The first type consists of regulations that do not constitute binding legal norms, such as PERMA No. 7 of 2003 on the Organization and Work Procedures of Court Clerks and Secretariat and PERMA No. 5 of 2016 on the Certification of Islamic Economic Judges. The second type includes PERMA that legally binds the public, such as PERMA No. 13 of 2016 on the Procedures for Handling Criminal Cases Involving Corporations, PERMA No. 2 of 2015 on Small Claims Court Procedures, PERMA No. 3 of 2012 on Court Fees, PERMA No. 1 of 1999 on Judicial Review, and PERMA No. 1 of 2011 on the Judicial Review of Regulations (Saraswati, 2020).

The application of PERMA is governed by the principle of legal hierarchy, which ensures a structured system of legal norms. This principle follows the pyramidal structure of legislative regulations. As noted by Eric Barendt, a constitution serves as the fundamental legal framework that delineates the authority of legislative, executive, and judicial institutions. Hans Kelsen's theory on the hierarchy of legal norms further illustrates this concept:

«Law regulates its own creation inasmuch as one legal norm determines the way in which another norm is created, and also, to some extent, the contents of that norm. Since a legal norm is valid because it is created in a way determined by another legal norm, the latter is the reason of validity of the former. The relationship between the norm regulating the creation of another norm and this other norm may be presented as a relationship of super- and sub-ordination. The norm determining the creation of another norm is superior, while the norm created according to this regulation is inferior.»

Every legislative regulation must conform to its position within the legal hierarchy. Lower regulations derive their authority from higher laws, and any contradiction between them should lead to the revocation of the inferior regulation. This hierarchical order ensures consistency and prevents conflicts among different legal instruments (Siwu, 2021). Moreover, it allows judicial bodies to conduct material review (judicial review) of legislation that contradicts superior norms.

PERMA exhibits several distinct characteristics. First, it is issued under delegated legislative authority, meaning it is not a primary legislative act but derives its legitimacy from existing laws. Second, it is created within the framework of rule-making, rather than law-making. Third, its function is complementary, filling legal gaps rather than overriding or modifying statutory provisions. Fourth, it is designed to regulate judicial

procedures rather than defining substantive rights and obligations for citizens. Lastly, it is formulated specifically for judicial implementation, ensuring procedural clarity within court proceedings.

Although PERMA is not explicitly included in the formal hierarchy of legislative regulations, its legal force derives from its delegated legislative authority. This delegation occurs when legislative bodies, such as the DPR and the President, transfer certain law-making powers to the judiciary. In Indonesian constitutional practice, two state institutions are entrusted with such delegated legislative power to fill legal gaps: the President and the Supreme Court. While the President enacts Government Regulations (PP) to execute laws, the Supreme Court issues PERMA to regulate judicial matters not explicitly covered in statutory law.

This distinction is crucial because the phrase “executing the law as intended” refers to the necessity of implementing statutory mandates in a concrete and enforceable manner, which is the role of Government Regulations. In contrast, the phrase “regulating matters not covered by law” applies to PERMA, which is designed to establish legal norms where gaps exist. Unlike Government Regulations, PERMA creates new procedural rules necessary to ensure the effective administration of justice.

One of the most significant PERMA regulations is PERMA No. 1 of 2020, which was enacted to standardize sentencing in corruption cases and prevent sentencing disparities in similar cases. This regulation primarily applies to cases adjudicated under Articles 2 and 3 of the Corruption Eradication Law (UU Tipikor). Article 3 of PERMA No. 1 of 2020 establishes the following objectives:

1. Facilitating judicial decision-making in corruption cases involving Articles 2 and 3 of the Corruption Eradication Law.
2. Preventing significant disparities in sentencing for cases with similar characteristics, ensuring that sentencing discrepancies are justified by adequate legal reasoning, while maintaining judicial independence.
3. Mandating judges to consider all relevant factors before determining the severity of the sentence in corruption cases.
4. Promoting legal certainty, justice, and proportionality in sentencing corruption-related offenses.

The mandatory nature of PERMA No. 1 of 2020 underscores its role in guiding judicial discretion while maintaining consistency in sentencing. By requiring judges to adhere to predetermined sentencing criteria, this regulation aims to eliminate arbitrary judicial decisions that lead to unjustified sentencing disparities.

3.3. Indonesia supreme court regulation no. 1 of 2020 on sentencing under articles 2 and 3 of the corruption law in corruption crime decisions

Corruption crimes are defined based on the elements contained in the provisions of the Corruption Law (Undang-Undang Tipikor). These crimes can be attributed to both individuals and corporate entities, as explicitly stated in Article 1(3) of the Corruption Law, which defines “every person” as referring to both natural persons and corporations. This provision establishes that corporate entities can be held criminally liable under the Corruption Law, allowing for broader legal accountability beyond just individual actors. The inclusion of corporate criminal liability ensures that businesses and organizations engaging in corrupt practices—such as misuse of public funds, bribery, and illicit procurement processes can be subject to criminal sanctions, financial penalties, and reputational consequences (Ali et al., 2023).

The Corruption Law, as codified in Law No. 31 of 1999 jo. Law No. 20 of 2001, classifies corruption into seven main types, each with distinct legal implications, evidentiary standards, and sentencing guidelines. These corruption offenses encompass various forms of illicit activities that undermine state integrity, governance, and public trust. The seven primary categories of corruption offenses under the Corruption Law are:

1. **State Financial Losses:** State financial losses refer to illegal acts that cause direct or indirect economic harm to the government. This includes embezzlement of public funds, misappropriation of state assets, and unauthorized expenditures that reduce the state's financial capacity. Articles 2 and 3 of the Corruption Law explicitly regulate these offenses by distinguishing between intentional and unintentional mismanagement of public finances. Intentional acts of corruption involve clear mens rea (criminal intent), where perpetrators knowingly manipulate government resources for personal or corporate gain. Conversely, unintentional financial mismanagement can also result in criminal liability, particularly when gross negligence leads to substantial losses in state funds. An important legal development in this category occurred through Constitutional Court Decision No. 25/PUU-XIV/2016, which clarified that actual financial loss to the state must be proven for a conviction, eliminating ambiguities that previously allowed for speculative prosecution. However, the law maintains that officials responsible for state losses may face administrative, civil, or criminal liability depending on the severity of their actions.

2. **Bribery:** Bribery is one of the most prevalent forms of corruption and involves the exchange of undue advantages to influence the decisions of public officials, law enforcement officers, or corporate executives. This can take various forms, including cash payments, gifts, luxurious trips, expensive accommodations, or business opportunities. Bribery disrupts the integrity of governance by enabling unlawful favoritism, biased judicial rulings, and policy manipulation.

3. **Embezzlement in Office:** Embezzlement in office occurs when public officials or corporate executives misuse entrusted funds, assets, or property for personal gain. Unlike general embezzlement, which may involve private entities, this offense specifically targets individuals in positions of fiduciary responsibility. Common examples include the misuse of public procurement funds, fraudulent salary payments, and diversion of government resources for personal projects.

4. **Fraudulent Acts:** Fraudulent acts under the Corruption Law include manipulating procurement processes, falsifying documents, engaging in deceptive financial reporting, and misrepresenting state expenditures. These acts often involve collusion between public officials and private sector actors, leading to overpricing, ghost projects, and substandard public infrastructure.

5. **Extortion:** Extortion refers to the act of coercing individuals, businesses, or institutions to provide financial or material benefits under threats of legal, administrative, or financial repercussions. Public officials who abuse their positions to demand bribes or favors fall under this category of corruption.

6. **Conflicts of Interest in Procurement:** This type of corruption occurs when public officials or decision-makers engage in biased or self-serving decision-making in government contracts, licensing, or state asset management. This can lead to nepotism, favoritism, and inefficiencies in public service delivery.

7. **Gratuities:** Gratuities refer to unsolicited financial or material benefits provided to public officials in exchange for favorable treatment or policy decisions. Unlike bribery, where the transaction involves a clear quid pro quo, gratuities are often presented as gifts, donations, or incentives that may or may not have immediate consequences. However, the law treats undisclosed or excessive gratuities as presumed bribes, unless proven otherwise.

Each category of corruption offense under the Corruption Law carries distinct legal consequences based on the severity, intent, and financial impact of the crime. The judicial framework governing corruption cases incorporates strict liability principles, burden of proof considerations, and judicial discretion in sentencing. The legal distinction between formal offenses and material offenses is particularly relevant in Articles 2 and 3,

where the proven existence of financial harm to the state serves as a critical element in determining criminal culpability (Sasmita et al., 2023).

The broad scope of corruption offenses outlined in the Corruption Law reflects Indonesia's commitment to combating systemic corruption and ensuring transparency, accountability, and good governance. The expansion of corporate liability further reinforces the legal system's capacity to pursue both individual and institutional actors engaged in corrupt practices. As corruption continues to evolve in complexity, legal interpretations and judicial practices must remain adaptable and responsive to emerging threats and new forms of economic crime.

Legal consequences refer to the implications imposed by the law on a legal event or act committed by a legal subject. According to the Indonesian Dictionary (Kamus Besar Bahasa Indonesia), the term *akibat* (consequence) denotes the outcome or result of an event, condition, or preceding action. Jazim Hamidi further elaborates that the term legal impact (*akibat hukum*) signifies a direct, strong, and explicit legal effect arising from a legal action or occurrence. In legal studies, legal consequences emerge when a specific legal status changes, when a legal relationship is created, modified, or terminated, or when sanctions are imposed as a legal repercussion for unlawful conduct.

These consequences are particularly relevant in corruption cases under Articles 2 and 3 of the Corruption Law (UU Tipikor), as the application of these provisions has resulted in significant disparities in sentencing outcomes. The enactment of Supreme Court Regulation No. 1 of 2020 (PERMA 1/2020) sought to address these inconsistencies by providing sentencing guidelines for corruption cases. However, despite the existence of this regulation, judges retain their judicial independence, allowing them to exercise discretion in sentencing based on the principle of judicial freedom.

The application of PERMA No. 1 of 2020 can be observed in Case No. 16/Pid. Sus-TPK/2023/PN.Smg, concerning the defendant Agus Hartono. In this case, the court rendered a verdict that sentenced the defendant to 10 years and 6 months of imprisonment, along with a fine of IDR 400,000,000 (four hundred million rupiah). In the event of non-payment, the fine would be replaced by an additional three-month prison term. The court also ordered the defendant to pay restitution amounting to IDR 14,706,746,943 (fourteen billion seven hundred six million seven hundred forty-six thousand nine hundred forty-three rupiah) (Manihuruk et al., 2022). Failure to comply within one month of the final ruling would result in asset seizure and auctioning by the public prosecutor. If the defendant lacked sufficient assets, an additional four-year prison sentence would be imposed in lieu of repayment.

Upon analyzing the judgment in light of PERMA No. 1 of 2020, the sentencing court applied Article 10 of the regulation, which classifies offenses based on culpability, impact, and benefit. Culpability was evident in the defendant's role as President Commissioner of his company, where he fraudulently secured a credit facility. Although the credit application was approved, the funds were misused rather than allocated for the stated purpose. The impact of the crime resulted in financial losses at a provincial level, with misappropriated credit disbursed from Bank BJB Semarang Branch. The defendant's fraudulent scheme led to an unjust enrichment of IDR 25,143,549,410.33 (twenty-five billion one hundred forty-three million five hundred forty-nine thousand four hundred ten rupiah and thirty-three cents), which directly contributed to state financial losses (Voigt & Gutmann, 2015).

According to PERMA No. 1 of 2020, cases involving severe financial losses fall under Category VII of sentencing severity. Under this classification, the recommended sentencing range is imprisonment between 10 and 13 years, with a minimum fine of IDR 500,000,000 (five hundred million rupiah) and a maximum fine of IDR 650,000,000 (six hundred fifty million rupiah). The imposed prison sentence of 10 years and 6 months aligns with the PERMA guidelines, but the fine of IDR 400,000,000 falls below the prescribed minimum of IDR 500,000,000. This discrepancy indicates that while the

judicial panel considered PERMA 1/2020 in determining the prison term, they did not fully adhere to its recommended financial penalties.

The legal consequences of PERMA No. 1 of 2020 have introduced a more structured approach to sentencing in corruption cases under Articles 2 and 3 of the Corruption Law. However, the case analysis highlights an ongoing judicial discretion in its application. While PERMA 1/2020 aims to standardize sentencing and reduce disparities, courts retain the authority to issue individualized judgments based on case-specific considerations. The partial adherence to PERMA 1/2020 in the analyzed case underscores the complex balance between judicial independence and regulatory consistency in the adjudication of corruption cases in Indonesia.

4. Conclusions

This study examines the legal implications of Supreme Court Regulation No. 1 of 2020 (PERMA 1/2020) in the context of sentencing for corruption offenses, particularly in the application of Articles 2 and 3 of the Corruption Law. The findings indicate that while PERMA 1/2020 aims to reduce sentencing disparities and enhance legal certainty, its implementation does not entirely eliminate variations in judicial decisions, especially in the imposition of fines and restitution. The analysis of Decision No. 16/Pid.Sus-TPK/2023/PN.Smg reveals that although the prison sentence imposed aligns with the PERMA guidelines, the fine imposed remains below the prescribed standard in the regulation.

These findings confirm that although PERMA 1/2020 provides clearer sentencing guidelines, judges retain their discretion in interpreting and applying them, allowing for continued sentencing disparities. This highlights the tension between efforts to standardize sentencing and the principle of judicial independence in delivering justice based on substantive fairness. From a legal policy perspective, this study demonstrates that the implementation of PERMA 1/2020 requires further evaluation to ensure a balance between legal certainty and justice in the prosecution of corruption cases. The urgency of this research lies in the need to harmonize sentencing regulations with judicial independence principles to achieve the primary objectives of criminal law: deterring offenders and effectively recovering state losses.

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EFFECTIVENESS OF LAND REDISTRIBUTION POLICY IN AGRARIAN REFORM PROGRAM: IMPLEMENTATION ANALYSIS AND SOLUTIONS TO LAND REFORM LAND REGISTRATION OBSTACLES

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Abstract

Presidential Regulation No. 62 of 2023 on the Acceleration of Agrarian Reform Implementation aims to accelerate land redistribution in order to achieve social justice and equitable distribution of land ownership in Indonesia. However, the implementation of this policy still faces various obstacles, especially in land inventory and registration, which are caused by administrative factors, overlapping ownership, and lack of transparency in the land system. This research aims to evaluate the effectiveness of this policy based on Soerjono Soekanto's Legal Effectiveness Theory, which includes legal substance factors, implementing apparatus, supporting facilities, public awareness, and legal culture. The research method used is a normative approach with socio-legal analysis, which examines applicable regulations and their implementation in the field. The results show that although this policy has provided a clear legal basis, its effectiveness is still not optimal due to the lack of coordination between agencies, the low legal literacy of the community regarding agrarian, and bureaucratic constraints in land management. Therefore, it is necessary to improve regulations, digitize the land registration system, strengthen coordination between central and regional governments, and increase legal awareness for land redistribution beneficiaries. With these steps, it is hoped that reform agrarian reform can run more effectively and have a real impact on society.

Keywords: agrarian reform; land redistribution; policy effectiveness; land inventory; agrarian law.

Introduction

Land is one of the resources that has strategic value for human life. In the perspective of agrarian law, land has a very important position because it is related to the economic, social and cultural aspects of society (Lumbanraja, 2023, p. 135). As an agrarian country, Indonesia has an agrarian policy that aims to regulate the ownership, control, and utilization of land in accordance with the principles of social justice as mandated in Article 33 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that «The land and water and the natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people».

One of the important policies in the effort to achieve agrarian justice is Agrarian Reform, which aims to distribute land to entitled groups of people in order to have access to agrarian resources (Hidayanti et al., 2021, p. 369). The government has issued various regulations to support this policy, including Presidential Regulation No. 62 of 2023 on Accelerating the Implementation of Agrarian Reform. This regulation aims to accelerate land redistribution to improve people's welfare through certainty of land rights and productive land utilization (Jundi et al., 2024, p. 740).

However, in its implementation, land redistribution faces many obstacles, especially in terms of land inventory and registration. For example, in Village Srimulyo, Dampit Subdistrict, Malang District, there are various administrative and legal obstacles that cause the implementation of land redistribution to not run optimally. Problems such as land data discrepancies, ownership conflicts, and lack of transparency in the land registration process are the main factors that hinder the success of this policy.

Research on land redistribution in the context of agrarian has been conducted by many academics, both nationally and internationally. reform Elfirawati (2016) in her research examines the implementation of land redistribution policy in Village Lalombi, highlighting the implementation aspects and administrative challenges faced in the redistribution process (Elfirawati, 2016, p. 127). This study provides insights into how the land redistribution policy is technically implemented in the field and the bureaucratic obstacles that can hinder the success of the program. In addition, Hairol et al. (2020) in their study of FELDA Land Plans in Malaysia, emphasized the role of structural factors in determining the success of land redistribution, especially in relation to the welfare of beneficiaries (Din et al., 2020, p. 923). Shows that institutional factors and infrastructure support play an important role in ensuring the effectiveness of land redistribution and preventing program failure due to lack of access to productive resources. Meanwhile, this study Metrika Prawita (2021) discusses the urgency of prohibiting absentee land ownership in agrarian, highlighting the gap in land ownership due to speculation and commercial interests reform (Prawita et al., 2021, p. 545). The study asserts that without strict regulations on absentee land ownership, agrarian reform could potentially fail to achieve its goal of creating a more equitable distribution of land.

Although various studies have highlighted important aspects of policies agrarian and land redistribution, there are research gaps (gap analysis) that need to be filled. To date, there is no research that specifically examines the effectiveness of Presidential Regulation No. 62/2003 in the context of land inventory and registration. This latest regulation has an important role in accelerating reform agrarian, but its implementation at the regional level still faces significant administrative and legal challenges. Therefore, this research is here to fill the gap by offering novelty in the form of an in-depth analysis of administrative obstacles in land inventory and registration and policy solutions that can improve the effectiveness of land redistribution. Thus, this research not only contributes to the academic realm, but also provides practical recommendations for the government in improving policies reform agrarian to achieve more equitable distribution of land ownership reform.

The urgency of this research stems from the importance of evaluating the

effectiveness of policies agrarian, especially in ensuring that land redistribution really provides benefits to the community. One of the fundamental problems that remains a major challenge is the inequality of land tenure, where land that should be the right of small farmers or underprivileged communities is still widely reform controlled by a handful of parties with extensive ownership. This inequality has led to widening social and economic gaps, so the land redistribution policy must be thoroughly evaluated so that it can run more effectively and achieve its goals in creating agrarian justice. In addition, the problem of agrarian conflict is also a serious threat that often arises due to uncertainty in land ownership status. Inaccurate data, lack of transparency, and overlapping regulations often lead to disputes between the community and the authorities, so there needs to be a clearer mechanism for implementing agrarian reform.

Furthermore, the lack of effectiveness in the implementation of the land redistribution policy, especially in the aspect of land inventory and registration, is also a factor that hinders the success of this program. Many people who are entitled to redistributed land still experience difficulties in obtaining legal certainty, both due to complex bureaucratic constraints and the weak monitoring system in the implementation of this policy at the regional level. Without concrete improvements in these administrative aspects, agrarian risks becoming a policy on paper that is difficult to implement in practice reform.

In the context of *ius constituendum*, this research has an important role in providing policy recommendations for the government, especially in drafting regulations that are more responsive to community needs. With this research, it is hoped that new ideas can be generated that can be used to improve the land inventory and registration system in the program agrarian, so that land distribution can be carried out more fairly, transparently and effectively. In addition, this research can also contribute to building a stronger legal framework to reduce the potential for agrarian conflicts and accelerate the land legalization process for beneficiaries' reform (Martalina & A.p, 2024, p. 73). Thus, this research is not only relevant in an academic context, but also has a real impact in supporting the success of agrarian in Indonesia reform.

This research focuses on evaluating the effectiveness of the implementation of Presidential Regulation Number 62 Year 2023 in land redistribution as part of the policy agrarian aimed at creating justice in land ownership. One of the aspects that needs to be studied is the extent to which this regulation has been effectively implemented in supporting the distribution of land to eligible community groups and how this regulation affects legal certainty for beneficiaries. However, in practice, there are various obstacles faced, especially in the inventory and registration of land redistribution objects. These obstacles can be in the form of administrative constraints, lack of transparency in the data collection process, and overlapping ownership claims that lead to potential agrarian conflicts. Therefore, this research also aims to identify and analyze policy solutions that can be applied to overcome these obstacles, so that land redistribution can run more effectively, transparently, and in accordance with the principles of reform equitable agrarian. By understanding the barriers and opportunities that exist, this research is expected to contribute to the improvement of land redistribution policies and provide concrete recommendations for the government in improving the implementation of reform agrarian reform at the local level.

With the complexity of the problems faced in the implementation of land redistribution in agrarian, this research is very important to evaluate the effectiveness of the policy and identify obstacles that hinder the achievement of fair and sustainable land redistribution goals. Presidential Regulation No. 62 of 2023 is expected to be a solution in accelerating reform agrarian, but its realization still faces administrative, legal, and social challenges that need to be analyzed in depth. Lack of effectiveness in land inventory and registration, legal uncertainty for beneficiaries, and potential agrarian conflicts are the main factors that must be addressed immediately so that this policy can really have

a real impact on society. Therefore, this research not only aims to provide an academic understanding of the effectiveness of regulations in reform agrarian, but also to offer policy solutions that can strengthen the implementation of land redistribution, so that the ideals of agrarian justice mandated by the 1945 Constitution can be realized reform.

Materials and Methods

The research method in this study is organized systematically to ensure that the results obtained can be trusted and have relevance to the research objectives. Considering that the main focus of this research is the effectiveness of the land redistribution policy in the program agrarian, the approach used must be able to examine the implementation of the law and its impact on society Reform.

The research used is normative research method (Johnny Ibrahim, 2012, p. 57) with a socio-legal approach (Tamanaha, 1997, p. 2). Normative research aims to examine the law from the perspective of applicable theories and norms, namely Presidential Regulation Number 62 Year 2023, in relation to land redistribution in agrarian. Meanwhile, the socio-legal approach is used to understand how this policy is implemented at the local level and how the community responds to the rules that have been set reform.

This socio-legal approach is relevant because law is not only understood as a set of written rules, but also as part of a social structure that has a direct impact on people's lives. According to Soerjono Soekanto, legal effectiveness can be measured from several factors, including legal substance, law enforcers, supporting facilities, public awareness, and aspects of legal culture (Soerjono Soekanto, 2007b, p. 11). Therefore, this research will examine the extent to which Presidential Regulation Number 62 Year 2023 has been effectively implemented, as well as identify obstacles faced in the process of inventorying and registering land redistribution objects.

In this research, the socio-legal approach is combined with normative analysis to evaluate the effectiveness of existing regulations and identify obstacles in their implementation. This approach allows for a broader study, by not only focusing on the written regulations (law in book), but also how the regulations are applied in practice (law in action).

land redistribution in the program of the theoretical foundation in this research serves as a framework that will be used to analyze the effectiveness of the policy agrarian, especially related to the implementation of Presidential Regulation No. 62 2023. This theoretical framework consists of several main concepts, namely Legal Effectiveness Theory, Agrarian Reform Theory, and Land Redistribution Theory, which will be used to evaluate the land redistribution policy and identify obstacles in the inventory and registration of land reform landreform.

Legal effectiveness is a fundamental aspect in assessing the success of a policy, including in the context of agrarian. reform Soerjono Soekanto stated that the law can be said to be effective if it has a real impact in changing people's behaviour in accordance with the regulated norms (Soerjono Soekanto, 2007a, p. 5). According to him, there are five main factors that determine legal effectiveness, namely:

1. Factors of the law itself - Quality of legal substance, clarity of norms, and suitability to the needs of society.
2. Law enforcement factors enforcement - Competence and integrity of law officers who implement the policy.
3. Supporting facilities - Administrative infrastructure that supports the implementation of the law.
4. Community factors - The level of public awareness and compliance with applicable laws.
5. Cultural factors - Social values and norms that influence the acceptance and implementation of law in society (Soerjono Soekanto, 2007a, p. 6).

In the context of this research, the effectiveness of Presidential Regulation No.

62 Year 2023 will be measured based on the extent to which this regulation is able to be implemented properly at the local level, including in the aspect of land reform land registration and redistribution. If this policy experiences significant obstacles in practice, then its effectiveness can be said to be not optimal.

Agrarian reform is a policy that aims to create equitable distribution of land ownership in order to reduce social inequality and improve people's welfare. Agrarian reform does not only focus on land redistribution, but also includes aspects of asset legalization and increased access to productive resources (M. Ali Ghufon, 2010, p. 47).

According to theory agrarian, the success of this policy depends on several key factors reform:

1. Regulatory Sustainability - Policy consistency from the central to regional level is needed to ensure the implementation of sustainable agrarian reform.
2. Participatory Approach - Community participation in the process agrarian will increase the effectiveness of policy implementation reform.
3. Infrastructure Support - The provision of administrative, technical, and legal facilities is necessary so that beneficiaries can utilize the land to its full potential.
4. Agrarian Conflict Resolution - Agrarian reform often faces challenges in the form of land disputes, so there needs to be a transparent and fair conflict resolution mechanism.

In the context of this research, theory agrarian is used to examine the extent to which land redistribution in the program reform agrarian has been in accordance with the principles of reform ideal agrarian reform (Siahaan, 2013, p. 196).

Land redistribution is part of agrarian that aims to redistribute land from large owners to community groups in need, such as small farmers, farm lab orders, and indigenous peoples. The concept aims to reduce land ownership inequality and improve agricultural productivity and social welfare reform (Sukirno, Sadono, 2015, p. 122).

Land redistribution can be studied through the perspective of Wealth Redistribution Theory, which explains that land as an economic asset must be transferred from a few large owners to the poor in order to create economic balance. In the context of development economics, Simon Kuznets in the Kuznets Curve states that in the early stages of economic development, inequality will increase, but with the right policy intervention, inequality will decrease in the long run (Mubyarto & Soekartawi, 2003, p. 38).

Some of the main factors that influence the success of land redistribution include:

1. Land Administration System - The clarity of procedures and legality of the distributed land will determine the legal certainty for beneficiaries.
2. Policy Alignment - Regulations that make it easier for smallholders to access land are necessary to achieve the goal of land redistribution.
3. Financial and Technological Support - Land redistribution must be accompanied by access to capital and agricultural technology so that land recipients can manage the land productively.

In this research, the theory of land redistribution is used to analyze the effectiveness of the land redistribution policy stipulated in Presidential Regulation Number 62 Year 2023, as well as identify the challenges faced in its implementation.

Results and Discussion

Agrarian reform in Indonesia is a strategic effort to reorganize the structure of control, ownership, use and utilization of land to make it more equitable, in accordance with the mandate of Article 33 paragraph (3) of the 1945 Constitution which states that «the earth and water and the natural resources contained therein shall be controlled by the state and used for the greatest prosperity of the people» (Dharsana et al., 2022, p. 86). This constitutional foundation emphasizes that natural resources must be managed by

the state for the welfare of all the people, not just a few parties (Zuhdi et al., 2025, p. 48).

Basic Agrarian (UUPA) No. 5 of 1960. UUPA aims to end the dualism of colonial and national agrarian law, and create justice in land ownership and control. However, the implementation of the history of agrarian in Indonesia began during independence, culminating in the ratification of the Law reform agrarian faces various challenges, including resistance from political and economic elites, as well as the government's lack of commitment in carrying out the land redistribution program reform (Zein, 2019, p. 134).

The main objective of agrarian is to create equitable land ownership to reduce social and economic inequality. With equitable land redistribution, it is expected that agricultural productivity will increase, smallholder incomes will increase, and rural poverty will decrease. In addition, reform agrarian reform also aims to empower farmers through access to productive resources and capacity building, so that they can manage their land effectively and sustainably. The positive impacts of successful agrarian include improved farmers' welfare, social stability in rural areas, and inclusive economic growth reform (Aliber et al., 2018, p. 9). However, failure to implement agrarian reform can exacerbate inequality, trigger agrarian conflicts, and hamper national development. Therefore, a strong commitment from the government, active participation from the community, and a clear legal framework are needed to ensure agrarian reform runs in accordance with the expected goals.

Land redistribution policy is the core of agrarian in Indonesia, aiming to reduce land tenure inequality and improve farmers' welfare. The legal framework underlying this policy includes Law No. 5/1960 on Basic Agrarian Principles and Government Regulation No. 224/1961 on the Implementation of Land Division and the Granting reform of Compensation (Sianipar et al., 2025, p. 92). These regulations emphasize the importance of redistributing land to the rightful people, in order to achieve social and economic justice.

On October 3, 2023, the government issued Presidential Regulation No. 62 of 2023 on Accelerating the Implementation of Agrarian Reform. This regulation aims to accelerate the implementation of agrarian reform through strategies such as asset legalization, land redistribution, economic empowerment of subject's agrarian, institutional strengthening, and community participation reform (DA, 2023). With this regulation, it is expected that the land redistribution process can run more effectively and on target. The implementation of land redistribution faces various challenges, including administrative constraints, lack of inter-agency coordination, and resistance from certain parties. Research shows that despite well-designed policies, implementation is often hampered by complex bureaucracy and a lack of competent human resources. In addition, community involvement in the planning and implementation process remains limited, reducing the effectiveness of the land redistribution program.

To overcome these obstacles, a collaborative approach between the government, communities and other stakeholders is needed. Strengthening institutional capacity, increasing transparency and accountability in the land redistribution process are key to the successful implementation of this policy. In addition, economic empowerment for beneficiaries through access to capital and technical training can increase the productivity of the distributed land.

With a strong legal framework and effective implementation, the land redistribution policy is expected to create equitable land ownership, improve farmers' welfare, and encourage sustainable rural development. Continuous evaluation and improvement of regulations and implementation mechanisms are necessary to ensure that the objectives of agrarian are achieved as expected reform. The implementation of land redistribution in the program agrarian often faces various obstacles, especially in the process of land inventory and registration. In Village reform Srimulyo, Dampit Sub-district, Malang Regency, these obstacles include administrative, legal and social

aspects that hinder the effectiveness of the land redistribution program. One of the main obstacles is the mismatch of available land data. Often, the data held by the government is inaccurate or out of date, making it difficult to identify and inventory the land to be distributed. These inaccuracies can be caused by a lack of data updates or errors in previous records. As a result, the land redistribution process is hampered and prone to conflict in the community. In addition, overlapping land ownership is a frequent problem. This is due to a lack of coordination between government agencies in charge of agrarian affairs, such as the National Land Agency (BPN) and local governments. For example, the BPN may issue land certificates without considering local claims and customs, leading to conflicts between indigenous communities and the government (Anastasia et al., 2024, p. 548).

The lack of transparency in the land registration process is also a significant obstacle. Complicated registration processes and bureaucratic red tape can make it difficult for landowners to obtain titles efficiently. This lack of transparency creates loopholes that can be exploited by irresponsible parties, increasing the risk of land disputes (Luvianti & Rasji, 2023, p. 5079). Weak supervision in the land inventory and registration process contributes to the problem. Without adequate supervision, corrupt practices or abuse of authority may occur, ultimately harming the people who are entitled to receive benefits from the land redistribution program. Weak supervision can also lead to non-compliance with established procedures, hindering the effectiveness of the program.

To overcome these obstacles, efforts are needed to improve the land administration system, increase coordination between related institutions, and active community involvement in the land inventory and registration process. Thus, the land redistribution program can run more effectively and achieve the goals of equitable distribution of land ownership and improvement of community welfare.

Presidential Regulation No. 62 of 2023 on the Acceleration of Agrarian Reform Implementation was issued as part of the government's strategy to accelerate land redistribution to create equitable land ownership and improve the welfare of agrarian communities. This emphasizes that land redistribution must be carried out through various mechanisms, such as asset legalization, agrarian conflict resolution, and strengthening land institutions Presidential Regulation (Indonesia, Pemerintah Pusat, 2023). However, the effectiveness of this policy in its implementation in the field still faces quite complex challenges, including administrative obstacles, lack of coordination between institutions, and resistance from certain groups that have an interest in land tenure.

In assessing the effectiveness of this policy, Soerjono Soekanto Legal Effectiveness Theory approach is used as the basis for analysis. According to Soekanto, legal effectiveness is influenced by five main factors, namely: legal substance, law enforcement officials, facilities, public awareness, and legal culture (Soekanto, 1985, p. 110). In the context of Presidential Regulation No. 62 Year 2023, the substance of the law can be said to be quite clear in regulating land redistribution, but it still needs improvement in terms of implementation mechanisms and supervision in the field. One of the biggest challenges is the lack of derivative regulations that can provide technical guidance for local governments in implementing this policy effectively.

Law enforcement officials and related bureaucracy are also key factors in the effectiveness of land redistribution implementation. Several reports show that the National Land Agency (BPN) and local governments still face obstacles in accelerating land certification for beneficiaries. In addition, in some cases, land redistribution is not accompanied by adequate technical assistance and capital for beneficiaries, so that land utilization cannot run optimally (Widowati & Kamil, 2025, p. 60). Lack of inter-institutional coordination is also a hindering factor, where conflicts of interest between local governments, BPN, and the private sector often hamper the land inventory and registration process.

In terms of facilities, the main challenge faced is the lack of information technology that can be used for a digital land inventory system. The land registration system, which still uses a manual approach, makes the land redistribution process slow and vulnerable to data manipulation and overlapping ownership (Meidodga et al., 2023, p. 73). In addition, limited human resources at the regional level are also an obstacle, especially in verifying land ownership data and resolving disputes arising from redistribution (Gafuraningtyas et al., 2024, p. 23).

Public awareness also plays an important role in the effectiveness of this policy. People's lack of understanding of their rights and obligations as beneficiaries often causes them to experience difficulties in accessing programs agrarian reform considered complicated and costly (Sumardjono, 2006, p. 84). In some areas, people are still hesitant to register their land due to administrative procedures that are (Angelina & Habeahan, 2024, p. 191). Therefore, there is a need to increase socialization on the importance of land registration and the long-term benefits of land ownership legal (Huda et al., 2024, p. 329).

From the legal culture aspect, the effectiveness of the land redistribution policy is also influenced by the level of public trust in the government and agrarian law. In some cases, programs agrarian in Indonesia face challenges due to land ownership conflicts with indigenous peoples or local communities that have land ownership systems based on hereditary heritage reform (Sinaga et al., 2024, p. 534). The incompatibility between customary law and national law often triggers resistance to land redistribution policies, which in turn hinders implementation on the ground. Therefore, a more inclusive approach is needed in the implementation of land redistribution, taking into account the sociological and cultural aspects of local communities (Aulia et al., 2025, p. 7).

Overall, the effectiveness of Presidential Regulation Number 62 Year 2023 in land redistribution still faces various challenges that need to be addressed immediately. Legal substance factors, law enforcement officers, supporting facilities, public awareness, and legal culture are the main elements that determine the success of this policy implementation. Improved coordination between institutions, digitalization of the land inventory system, and more intensive socialization to the community are needed so that land redistribution can run more effectively and contribute to achieving sustainable agrarian justice (Pinuji et al., 2021, p. 60).

To optimize land redistribution in agrarian in Indonesia, a series of strategic policies are needed that include improving regulations, optimizing the land inventory system, increasing transparency in land registration, and strengthening coordination between central and local governments reform.

1. Regulation improvement. Agrarian reform in Indonesia is often hampered by overlapping and unsynchronized regulations between various government agencies. Therefore, harmonization of agrarian policies is needed to reduce conflicts and legal uncertainty. In addition, the preparation of clear and operational derivative regulations from Presidential Regulation No. 62 of 2023 on the Acceleration of Agrarian Reform Implementation is essential to provide technical guidance for implementers in the field. This will ensure that the policy can be implemented effectively and in accordance with the objectives of agrarian reform.

2. Optimization of land inventory system. The use of information technology in land inventory systems can improve the accuracy and efficiency of data collection. The implementation of Geographic Information Systems (GIS) and digital databases enables accurate mapping and documentation of land ownership, thus minimizing errors and overlapping data (unairnews, 2024). This step not only improves the efficiency of land administration but also provides legal certainty for landowners (Khair & Assyahri, 2024, p. 57).

3. Increased transparency in land registration. A transparent and efficient land registration process is essential to reduce agrarian disputes and conflicts. The

implementation of programs such as the Complete Systematic Land Registration (PTSL) aims to provide legal certainty of land rights for the community (Nurahmani & Rismansyah, 2020, p. 7). With the principles of simple, fast, fair, equitable, open, and accountable, this program is expected to improve the welfare of the community and reduce and prevent land disputes (Tanri et al., 2020, p. 786).

4. Strengthening coordination between central and local government. The effectiveness of agrarian depends on the synergy between the central and local governments. The establishment of the Agrarian Reform Task Force (GTRA) involving various stakeholders can improve coordination and policy implementation in the field reform (Salim et al., 2021, p. 155). With strong leadership and effective coordination, bureaucratic obstacles can be minimized, so that the land redistribution process can run smoothly and achieve the set targets.

By implementing these policy solutions, it is hoped that land redistribution in agrarian can run more effectively, so that the objectives of equalizing land ownership and improving people's welfare can be achieved reform.

Conclusions

Presidential Regulation 62/2003 on the Acceleration of Agrarian Reform Implementation plays an important role in promoting land redistribution to achieve agrarian justice. This research shows that the effective implementation of this policy still faces a number of obstacles, including administrative constraints, overlapping land ownership, and lack of transparency in land inventory and registration. Referring to Soerjono Soekanto Theory of Legal Effectiveness, this policy has not been fully optimized in terms of legal substance, implementing apparatus, supporting facilities, as well as public legal awareness and culture. However, there is great potential for this policy to achieve better goals through improved regulations, optimization of digital-based land inventory systems, increased coordination between institutions, and increased public awareness of land rights and the importance of legal certainty in land ownership. These findings confirm that the sustainability of agrarian requires a more systematic and inclusive approach, so that the land redistribution policy can run more effectively and provide real benefits to the community reform.

In order for Presidential Regulation No. 62 Year 2023 to be more effective in implementing land redistribution, the government needs to take several strategic steps. First, a more comprehensive harmonization of regulations is needed to reduce overlapping policies between the central and regional governments. Second, digitalization of the land inventory system by applying Geospatial Information System (GIS) technology should be implemented immediately to improve efficiency and transparency in land registration. Third, strengthening the role of the Agrarian Reform Task Force (GTRA) at the local level is needed to ensure coordination between the National Land Agency (BPN), local governments, and communities. Fourth, capacity building of bureaucratic apparatus in implementing the land redistribution policy should be done through training and stricter supervision. Finally, socialization of rights and obligations in agrarian needs to be improved so that people are more active in managing land ownership and preventing agrarian disputes. By implementing these measures, the effectiveness of land redistribution can increase, and can realize agrarian justice mandated in the 1945 Constitution reform.

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EFFECTIVENESS OF SUPERVISION OF TRANSFER OF INFRASTRUCTURE, FACILITIES, AND PUBLIC UTILITIES (PSU) FUNCTIONS INTO COMMERCIAL BUILDINGS IN MALANG: A SOCIO-LEGAL APPROACH IN THE PERSPECTIVE OF GOOD GOVERNANCE

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Abstract

Land conversion of Infrastructure, Facilities, and Public Utilities (PSU) into commercial buildings in Malang City is a phenomenon that is increasingly widespread and has caused various spatial problems. This research aims to analyze and evaluate the effectiveness of policies and supervision practices carried out by the Malang City Government in preventing PSU misuse. Using socio-legal methods and a qualitative approach, data was collected through in-depth interviews and document studies involving officials of the Public Works Office and housing developers. The results showed that weak law enforcement mechanisms, lack of coordination between agencies, and low awareness of developers are the main factors that trigger uncontrolled land conversion. Based on Lawrence M. Friedman's legal system theory framework, this research highlights how the interaction between legal substance, legal structure, and legal culture determine the success of PSU management. The research concludes that although regulations are in place, their implementation is still weak. Therefore, it is necessary to strengthen legal supervision, increase transparency, and apply the principles of good governance and sustainability as an effort to prevent further violations and maintain Malang City's spatial layout to be more organized and equitable.

Keywords: PSU function change; legal supervision; spatial planning; good governance.

1. Introduction

The provision of adequate housing is a basic human right as guaranteed in Article 28H paragraph (1) of the 1945 Constitution (Indonesia, Pemerintah Pusat, 1945). To realize

The conversion of Infrastructure, Facilities, and Public Utilities (PSU) land into commercial buildings in Malang City is a complex phenomenon that involves various factors. In general, land conversion occurs when land that was originally planned for public facilities, such as parks, roads, or green open spaces, is converted to commercial use, such as the construction of shopping centers or luxury housing. This process is often influenced by economic pressures and the need for infrastructure development that is considered more financially lucrative. For example, the development of Malang Town Square (MATOS) and Olympic Garden Mall (MOG) in Malang City shows the conversion of land previously designated as green open space or other public facilities into commercial areas (Susilaningih & Bo, 2014, p. 82).

In dealing with this problem, the Public Works, Spatial Planning, Housing, and Settlement Areas Office (DPUPRPKP) of Malang City has a strategic role in regulating and supervising land use in accordance with its designation. Based on Malang City Regional Regulation No. 5/2019, DPUPRPKP is responsible for policy formulation, implementation, and supervision in the field of public works and spatial planning (dpuprpkp.malangkota, 2019, p. 3). However, the implementation of these policies and supervision still faces various obstacles. One of them is the lack of public and developer awareness of the importance of PSU submission to local governments. In 2022, the Malang City Government continued to encourage housing developers to submit PSUs, but the realization was not optimal (Malang, 2022). In addition, weak law enforcement and lack of coordination between related agencies are also obstacles in monitoring land use change.

To overcome these problems, collaborative efforts are needed between the government, the community, and developers. Increased socialization about the importance of PSU, strict law enforcement against violations of land use change, and transparency in the licensing process can be the first step in maintaining the spatial sustainability of Malang City.

This research aims to analyze and evaluate the policies and supervision practices implemented by the Malang City Government in overcoming the problem of conversion of Infrastructure, Facilities, and Public Utilities (PSU) into commercial buildings. The conversion of PSU that is not in accordance with its designation can reduce the quality of the residential environment and disrupt the welfare of the community (Maryati et al., 2021, p. 101183). Therefore, evaluation of existing policies and the effectiveness of their supervision is crucial to ensure that PSU continues to function in accordance with its original purpose.

In addition, this research also aims to provide policy recommendations that can improve the effectiveness of PSU management to maintain the quality of decent housing. The recommendations are expected to be a reference for the Malang City Government in formulating more effective and efficient policies in PSU management, so as to improve the quality of life of the community and create a comfortable and sustainable residential environment.

The conversion of PSU land into commercial buildings in Malang City is an issue that requires serious attention from various parties, including the local government, developers, and the community. An effective PSU management policy and a strong monitoring system are key in maintaining the balance between development and the sustainability of the residential environment. Despite the existence of regulations, the practice in the field shows that there are still many challenges in its implementation, ranging from weak coordination between agencies to the lack of awareness of the community and developers of the PSU submission obligations. Therefore, this research not only aims to evaluate existing policies but also provide recommendations that can improve the effectiveness of PSU management in order to maintain the quality of decent housing and prevent land abuse (Permadi, 2023, p. 292) that has a negative impact on the community and the spatial layout of Malang City.

2. Materials and Methods

The theoretical foundation is an important part of legal research because it is the basis for analyzing and understanding the phenomenon under study (Budianto, 2020, p. 1339). In the context of land conversion of Infrastructure, Facilities, and Public Utilities (PSU) into commercial buildings in Malang City, this research uses Lawrence M. Friedman's Law Enforcement Theory as the main approach. This theory highlights three main components in the legal system, namely legal substance, legal structure, and legal culture (Flora et al., 2023, p. 119), which play a role in determining the effectiveness of policies and supervision of spatial utilization.

Legal substance includes rules and regulations that govern land use and spatial planning, including Malang City Regional Regulation No. 5/2019 (Indonesia, Kota Malang, 2019) and Law No. 26/2007 on Spatial Planning (Indonesia, Pemerintah Pusat, 2007). In the context of this research, legal substance functions as an instrument that regulates the designation of PSUs and prevents their misuse by housing developers and the commercial sector. However, although regulations are available, their implementation in the field still faces obstacles in the form of mismatches between planning and implementation.

Legal structure refers to the institutions and state apparatus responsible for enforcing spatial regulations. In this study, the legal structure includes the role of the Public Works, Spatial Planning, Housing, and Settlement Areas Office (DPUPRPKP) of Malang City, which has the authority to supervise the utilization of PSUs. However, the effectiveness of supervision is often hampered by the lack of coordination between agencies and limited resources in field supervision. Previous studies show that many cases of land conversion occur due to weak government control over developers who do not submit PSUs as required.

Legal culture describes the awareness of the community and developers of the applicable laws. In the case of PSU conversion, the low awareness of developers and weak legal sanctions have caused many violations to occur. Based on Friedman's theory, if a society has a weak legal culture, then no matter how good the legal substance and structure are, policy implementation will still not go well.

In the context of this research, Lawrence M. Friedman's Law Enforcement Theory provides a framework for understanding how spatial policies in Malang City are implemented, and why there are still gaps in their implementation. By referring to this theory, this research will evaluate the effectiveness of existing regulations, identify constraints in the institutional structure responsible for supervision, and examine how the legal culture of the community and developers contribute to the problem of PSU conversion.

Thus, this theory helps in formulating more effective policy recommendations based on the principles of Good Governance, where transparency, accountability, and consistent law enforcement are the main factors in creating a more equitable spatial system (Biswas et al., 2019, p. 234).

This research uses a socio-legal research method (Atikah et al., 2024, p. 2) with a qualitative approach to analyze the discrepancies in the implementation of regulations related to the conversion of Infrastructure, Facilities, and Public Utilities (PSU) into commercial buildings in Malang City. This method combines normative legal analysis with an empirical approach, conducted through interviews with officials of the Malang City Public Works, Spatial Planning, Housing and Settlement Areas Office (DPUPRPKP) and housing developers. The socio-legal approach allows for a more in-depth analysis of the effectiveness of spatial planning policies in Malang City as well as the obstacles faced in its supervision.

Strengthening the socio-legal approach in this research is obtained through the addition of quantitative data that shows the high level of land conversion in Malang

City, which directly affects the effectiveness of supervision and law enforcement against misuse of Infrastructure, Facilities and Public Utilities (PSU). Based on a report from the East Java Provincial Bappeda, agricultural land in Malang City is shrinking by an average of 70-80 hectares per year or around 5-6 percent, which shows high land conversion pressure due to the need for urban space that increases every year (Bappeda Provinsi Jawa Timur, 2011). geospatial research by Brawijaya University also noted that paddy fields experienced the sharpest decline in 2018-2019, at a rate of 25.42 percent per year, where 31.38 percent of the land was converted into residential areas (Hermawan et al., 2025, p. 1). This is in line with data from the PUPRPKP Office of Malang City which notes that until the end of 2022, as many as 146 PSUs have been officially handed over by developers to the Malang City Government, indicating that government supervision in PSU management is still reactive rather than preventive (Malang, 2022). In addition, other studies show that the conversion of state land functions such as Green Open Space (RTH) to commercial functions has occurred since the 1970s, including the construction of shopping centers such as MOC and MATOS over former sports facilities and RTH (Susilaningsih & Bo, 2014, p. 82). This quantitative data strengthens the empirical approach in the research by providing a real picture of the discrepancy between regulations and practices in the field.

The research conceptual framework refers to Lawrence M. Friedman's Law Enforcement Theory, which states that legal effectiveness depends on legal substance, legal structure, and legal culture (Flora et al., 2023, p. 119). In the context of this research, legal substance refers to spatial regulations governing PSU utilization, legal structure includes institutions responsible for supervision, and legal culture reflects the level of compliance of the community and developers in carrying out their obligations towards spatial planning. An evaluation of these three aspects allows this research to identify obstacles in the implementation of the regulation and the effectiveness of its supervision. This research relies on two main categories of sources, namely primary and secondary legal sources. Primary legal sources include various legal documents and regulations that form the basis for analyzing the PSU conversion policy. Meanwhile, secondary legal sources consist of academic literature, scientific journals, as well as the results of previous research relevant to PSU conversion and land governance.

Data collection in this research was conducted through in-depth interviews (iProbe, 2022) and document studies to gain a more comprehensive understanding of the policies and challenges in the implementation of the regulation on the transfer of function of Infrastructure, Facilities and Public Utilities (PSU) in Malang City. Interviews were conducted with Malang City DPUPRPKP officials and housing developers, aiming to explore the extent to which the regulation has been implemented and identify factors that cause deviations in its implementation. In addition, document studies were conducted to analyze spatial regulations, government reports, and various relevant policies to obtain a comprehensive picture of the effectiveness of PSU management. In this study, a purposive sampling technique was used (Salmaa, 2023), which is the selection of samples based on certain criteria relevant to the research, thus ensuring that the selected subjects have a direct relationship with the problems studied. The research sample includes DPUPRPKP officials in Malang City who are responsible for PSU supervision, housing developers involved in PSU conversion, and communities affected by the conversion. To analyze the data, this research applied a descriptive qualitative method, grouping the findings based on main categories such as regulatory non-conformity, supervision constraints, and social and economic factors that influence compliance with spatial regulations. With this approach, the research aims to identify gaps in PSU management policies and develop recommendations that can improve the effectiveness of supervision and law enforcement related to PSU conversion in Malang City. All research followed ethical guidelines (ICC/ESOMAR, 2016), to ensure transparency, respondent privacy, and compliance with international ethical standards (ESOMAR,

2016). Written informed consent was obtained, and confidentiality was maintained.

3. Results and Discussion

Infrastructure, Facilities, and Public Utilities (PSU) is a vital element in urban spatial planning, serving as supporting infrastructure that ensures the smooth running of community activities and the sustainability of the settlement environment. PSU includes various facilities such as road networks, drainage, drinking water supply, sanitation, landfills, and green open spaces (RTH) (Ditjen Bina Pembangunan Daerah, 2024). The availability of adequate PSU not only improves the quality of life of residents, but also encourages the creation of a healthy and productive environment.

In Indonesia, regulations related to PSUs are regulated in several laws and regulations. Law No. 26/2007 on Spatial Planning emphasizes the importance of a spatial structure consisting of an arrangement of settlement centers and a network system of infrastructure and facilities that function as support for the socio-economic activities of the community (Indonesia, Pemerintah Pusat, 2007). In addition, Government Regulation Number 12 of 2021 emphasizes that the PSU component is important to ensure the development of housing and residential areas that are organized and in accordance with the carrying capacity and capacity of the environment (Indonesia, Pemerintah Pusat, 2021).

Local governments have a crucial role in PSU management (dkpp.dumaikota, 2023). For example, the Sleman Regency Government emphasizes that public and social facilities in housing must be maintained in terms of availability, function, and sustainability so that the quality of housing can be well maintained and slums are not created (bappeda.slemankab, 2020). Accurate PSU data collection is also an important step to identify housing and residential areas that need PSU development or repair, so that it can support the creation of a sustainable, timely, complete and accurate reporting system (perkim.id, 2023).

By understanding the concept and regulation of PSU in urban planning, it is expected that all parties, including the government, developers, and the community, can play an active role in realizing a livable, sustainable, and compliant residential environment. Good cooperation between all stakeholders will ensure the sustainability and quality of PSU, which in turn improves the overall quality of life of the community (Media Kalbar, 2024).

The conversion of Infrastructure, Facilities and Public Utilities (PSU) into commercial buildings in Malang City has become a concerning phenomenon, especially in residential areas such as Sigura-Gura Residence and Griya Mandiri. PSU, which includes facilities such as roads, drainage channels and green open spaces, should function to support the quality of life of the community (Nurchahyo, 2024). However, the conversion of these lands for commercial purposes is often not in accordance with their original designation, resulting in various problems in urban planning (Fitriah & Irwan Noor, 2020, p. 2).

One of the significant impacts of PSU conversion is that it is inconsistent with the established spatial plan. Land conversion without proper planning can disrupt the balance between built-up area and open space, which is essential for the sustainability of the urban environment (Lourenço et al., 2020, p. 123096). In addition, a decline in the quality of the residential environment is also an inevitable consequence. Uncontrolled land conversion can lead to a reduction in green spaces and other public facilities, which negatively affects the comfort and health of residents.

Disruption to the drainage system is another impact that needs serious attention. The conversion of PSU land, especially those related to waterways or infiltration areas, can result in drainage systems not functioning optimally. This increases the risk of waterlogging or flooding in residential areas. Studies show that the use of irrigation channels as drainage channels, as well as land elevations that are lower than the water

level in the channels, can exacerbate this condition (Juwono & Subagiyo, 2017, p. 260).

The phenomenon of PSU land conversion also reflects the lack of synergy between the government and developers in maintaining the quality of the urban environment. The obligation to hand over PSUs by developers to local governments, as stipulated in the Minister of Home Affairs Regulation Number 9 of 2009 (Indonesia, Kementerian Dalam Negeri, 2009) and Malang City Regional Regulation Number 2 of 2013 (Indonesia, Kota Malang, 2013), is often not fulfilled properly. As a result, public facilities that should be managed by the government for the benefit of the community become neglected or converted without a clear permit.

To overcome this problem, stricter government supervision of PSU land conversion practices is needed. In addition, active community participation in monitoring and reporting violations is also important to ensure that PSU is used as intended. Thus, the quality of the settlement environment can be maintained, and the risk of disasters such as flooding can be minimized.

The provision of infrastructure, facilities, and public utilities (PSU) in residential areas is a fundamental element in efforts to organize livable, healthy, and sustainable housing. Based on Article 1 point 1 of Law Number 1 Year 2011 on Housing and Settlement Areas, housing management is a system that includes land provision, funding, and the role of the community in forming an integrated residential area. Housing is not just a place to live, but must also be equipped with infrastructure such as roads, drainage, clean water systems, lighting, and open spaces that support the social and economic life of the community (O'Sullivan et al., 2023, p. 7).

Regional spatial regulations, particularly Malang City Regional Regulation No. 6 of 2022 on the Regional Spatial Plan of Malang City, emphasize that residential areas include housing, public facilities, social, and city infrastructure (Indonesia, Kota Malang, 2022). Article 60 of the regulation also explains that the development of residential areas must be integrated with transportation network systems, clean water, waste management, disaster evacuation routes, and green open spaces (3). However, facts on the ground show that not all developers comply with these provisions optimally. Data collection of PSUs is one of the crucial steps that needs to be carried out from the early stages of planning to the development process so that the provision of these facilities can be monitored and in accordance with standards.

From the interview with the Head of the Licensing Division of the Investment and One-Stop Service (DPMST), it is known that the increasing need of the community for housing also encourages the importance of the availability of social and public facilities such as parks, roads, places of worship, schools, and posyandu. He emphasized that the construction of these facilities cannot be separated from the responsibility of the developer and must be closely monitored by the local government to ensure the quality of the settlement environment. This is in line with the research findings, which show that weak supervision in the early stages of licensing is often a loophole for violations in the field.

Furthermore, an interview with the Head of the Housing Division of DPUPRKP Malang City, revealed that the process of providing PSU starts from the planning stage, which includes location permits, planning, and PBG (formerly IMB). Initial control must be carried out so that the proposed site plan really becomes a reference in development. In the development stage, the developer's responsibility includes land maturation and provision of infrastructure according to the approved plan. Local governments together with related agencies have the authority and responsibility to carry out continuous supervision so that violations of PSU development can be prevented.

As part of the socio-legal approach, this research also highlights the importance of collecting data on PSUs as the basis for submission from developers to the government. The data collected should include the name of the housing, location, land size, type of facility, and coordinate points. This data collection is not only an evaluative tool but

the fulfillment of this right, the implementation of housing and residential areas requires adequate Infrastructure, Facilities, and Public Utilities (PSU). However, in Malang City, there is a problem of conversion of PSU functions into commercial buildings that have an impact on reducing environmental quality and incompatibility with spatial plans.

For example, in some housing estates such as Sigura-Gura Residence and Griya Mandiri, it was found that land that should have been used for public facilities such as musala was instead converted into commercial housing. This causes disruption to the drainage system and increases the risk of flooding in the area. This phenomenon shows weaknesses in regulation and supervision on the part of the local government in controlling spatial planning in Malang City (Nanda, 2024).

Several studies have addressed the role of local governments in PSU management and urban spatial issues, including from the perspective of spatial and environmental impacts. The study by Adifa & Sungkowo (2024) highlighted how land conversion for residential areas can lead to mismatches with the physical conditions of the land, such as slope levels that are at high risk of landslides and so on (Adifa & Sungkowo, 2024, p. 1). In their study of the Sidorejo area, Godean sub-district, it was found that much of the land was converted inconsistently with its designation in the Regional Spatial Plan (RTRW), causing significant environmental problems.

In addition, a study by Hayati & Kriswibowo (2023) discussed the importance of Good Environmental Governance in green open space (RTH) governance (Hayati & Kriswibowo, 2023, p. 308). They highlighted that the management of public space and urban land must pay attention to sustainability and legal aspects, including applicable regulations in maintaining the proportion of green land in urban areas (Jabbar et al., 2024, p. 96). This research provides insight into how good spatial policies can reduce the negative impacts of land conversion, while highlighting the lack of implementation of regulations in monitoring land management.

Meanwhile, research by Sutanto (2021) highlighted the policy and implementation of the delivery of housing Infrastructure, Facilities, and Public Utilities (PSU) in Pamekasan Regency (Sutanto, 2021, p. 1491). The study shows that the main obstacles in PSU management are the lack of public awareness of their rights to PSUs and weak law enforcement mechanisms from the local government. The study also highlights that existing policies are often general in nature and require further technical regulations to be effectively implemented.

However, although previous studies have discussed aspects of land governance, environmental impacts of conversion, and PSU policies, there are still gaps in the analysis related to the effectiveness of supervision and law enforcement policies applied by local governments in preventing the conversion of PSU into commercial buildings. Adifa & Sungkowo's (2024) study focuses on technical factors and land suitability, while Hayati & Kriswibowo's (2023) study emphasizes aspects of green space policies. Sutanto's (2021) research focuses more on the implementation of PSU policies in certain areas, but does not specifically discuss the effectiveness of supervision in suppressing the practice of PSU conversion that is not in accordance with the spatial plan.

This research fills the gap by analyzing specifically the policies and effectiveness of supervision carried out by the Malang City Government in overcoming the problem of PSU conversion into commercial buildings. In contrast to previous research that focuses more on technical aspects, green space policies, or implementation of PSU policies, this research will examine PSU from a legal and land governance perspective to produce policy recommendations that are more effective in overcoming this problem.

This research has urgency because many developers illegally divert PSU functions into commercial buildings, which has an impact on the disruption of housing area governance, decreased environmental quality, and increased risk of disasters such as flooding. In the context of *ius constituendum*, this research is expected to provide recommendations for more effective policies to enforce the provisions related to PSU.

also a legal basis in assessing the feasibility of PSU handover. This activity is regulated in Permendagri No. 9/2009 (Indonesia, Kementerian Dalam Negeri, 2009) and is a prerequisite in the transfer of PSU management from the developer to the government. Accurate and transparent data collection is very important, not only to support spatial planning, but also as part of public education so that developers understand their legal obligations and increase community participation in creating a comfortable and sustainable residential environment.

The main problem in PSU management in Malang City is the slow process of handing over public facilities by developers to the Local Government. In an interview with the Head of the Housing and Settlement Area Section of Malang City, many developers have built public facilities but have not handed them over as required. In some cases, the PSU land is converted into residential houses and sold to the public without legal procedures. This creates a discrepancy between the spatial plan and the reality of land use in the field.

This phenomenon indicates structural and regulatory weaknesses in the supervisory system. Based on the provisions of Article 11 of Law Number 1 Year 2011 (Indonesia, Pemerintah Pusat, 2011) and Article 11 of Permendagri Number 9 Year 2009 (Indonesia, Kementerian Dalam Negeri, 2009), the delivery of PSUs should be carried out a maximum of one year after the maintenance period, and must be adjusted to the approved site plan. However, its implementation in Malang City shows the City Government's indecisiveness in carrying out its supervision and control functions, as also emphasized in Article 17 of Malang City Local Regulation Number 2 of 2013. In practice, developers continue to manage and even utilize PSU land because it is still incorporated in the master certificate that has not been separated.

From the socio-legal approach used, it was found that there is a discrepancy between legal norms and implementation in the field. Although administrative sanctions such as revocation of business licenses have been regulated in legislation, including in Article 150 and Article 157 of Law No. 1/2011, local government supervision has not been fully effective. In addition to administrative violations, the actions of developers who build and sell houses on PSU land can also be subject to criminal and civil liability. Criminal sanctions include imprisonment for a maximum of 10 years or a fine of up to IDR 5 billion, while from the civil side, the community as residents have the right to claim compensation on the basis of default.

Furthermore, based on interviews, the community suffered material losses such as a decrease in property value and immaterial losses due to environmental damage, such as flooding. This strengthens the elements of default and tort as referred to in Article 1246 of the Civil Code and Article 1365 of the Civil Code. As explained by Yahya Harahap and Subekti, developers can be held liable for costs, losses, and interest if there is a causal relationship between the default and the losses suffered by the community. Synchronizing with the background findings and methods used, this research emphasizes the importance of reformulating supervision policies based on the principles of Good Governance and sustainability. The Malang City Government needs to increase transparency, enforce the law consistently, and provide strict sanctions to developers who abuse their authority. Thus, the goal of sustainable and equitable urban spatial planning can be achieved. The Public Works, Spatial Planning, Housing, and Settlement Areas (DPUPRPKP) Office of Malang City has an important role in overseeing Public Infrastructure, Facilities, and Utilities (PSU). The 2019 Government Agency Performance Report (LKiJP) shows that DPUPRPKP is responsible for the formulation and implementation of policies related to public works, spatial planning, housing, and residential areas. In addition, the agency also manages water resources, irrigation systems, drinking water supply, and city drainage systems (dpuprpkp.malangkota, 2019).

However, in carrying out its functions, DPUPRPKP faces various challenges. One of them is the weak law enforcement mechanism against developers who do not comply

with the PSU submission provisions. The lack of strict sanctions and effective supervision can encourage developers to ignore their obligations, thus hampering the provision of decent public facilities for the community.

In addition, the lack of coordination between government agencies is also an obstacle. Without good synergy between DPUPRKP and other agencies, such as the Regional Development Planning Agency (Bappeda) and the Environmental Agency, the PSU planning and supervision process can be fragmented. This can lead to policy inconsistencies and ineffective implementation in PSU management.

The low awareness of developers and communities on the importance of PSU submission is also a challenge. Many do not understand that PSU plays a vital role in creating a comfortable and sustainable residential environment. Therefore, intensive socialization and education efforts are needed to increase the understanding of all parties regarding the importance of PSU in urban development.

The conversion of Infrastructure, Facilities and Public Utilities (PSU) by developers without a valid permit is a serious violation of Indonesian laws and regulations. PSUs, which include facilities such as roads, drainage channels, and green open spaces, are supposed to be handed over to local governments to manage for the benefit of the community. However, some developers ignore this obligation, converting PSU land for commercial purposes without following the applicable procedures.

Such violations may be subject to administrative sanctions in accordance with applicable regulations (Adhyatma et al., 2018, p. 117). Such sanctions include written warnings, restrictions on development activities, temporary or permanent suspension of development implementation work, temporary or permanent suspension of housing management, temporary control by the government (sealing), the obligation to dismantle the building itself within a certain period of time, and the obligation to rebuild housing in accordance with the agreed criteria, specifications, requirements, infrastructure, facilities, public utilities, and standards (Saufa Ata Taqiyya, 2021).

In addition to administrative sanctions, developers who carry out PSU conversion without a permit can also be subject to criminal sanctions. For example, in the context of conversion of agricultural land to non-agricultural land without a permit, the perpetrator may be subject to imprisonment and fines in accordance with applicable laws and regulations (Darman, 2020, p. 13).

However, the implementation of regulations related to the handover and management of PSUs often faces obstacles. One of the main problems is weak supervision and law enforcement by local governments. Although there are regulations governing the mechanism of PSU handover by developers to local governments, supervision of the implementation of these regulations is still considered weak (Heriani, 2022a).

To evaluate the effectiveness of the legal system in tackling this problem, Lawrence M. Friedman's Law Enforcement Theory can be used as an analytical framework. Friedman argues that the success of law enforcement is influenced by three main components: the structure of law, the substance of law, and legal culture (Burdaturun, 2016, p. 464).

Legal structure refers to the institutions and law enforcement officers that play a role in implementing the rules (Zuhdi et al., 2025, p. 48). In this context, the role of local governments and related agencies is crucial. Legal substance includes applicable regulations and policies, which must be clear and comprehensive to prevent legal loopholes (BPHN, 2014). Meanwhile, legal culture relates to the attitude and awareness of the community and business actors towards the importance of complying with existing rules. These three components must function synergistically to achieve effective law enforcement.

Thus, to tackle violations of PSU function change by developers, it is necessary

to strengthen these three aspects. Strengthening the capacity and integrity of law enforcement officials, improving regulations governing PSU, and increasing legal awareness among the public and developers are strategic steps that must be taken. This holistic approach is expected to ensure that PSU is managed according to its designation, thus supporting the creation of a sustainable and quality residential environment.

To improve the effectiveness of Infrastructure, Facilities, and Public Utilities (PSU) management in Malang City, a comprehensive set of strategic policies is needed. One of the main steps is to increase transparency in the licensing process. By providing open access to licensing information, the public can monitor and ensure that every housing development meets the set standards. This transparency also prevents corruption and abuse of power in the licensing process.

Strengthening law enforcement against developers who violate the rules is also key. The Malang City Government needs to apply strict sanctions for developers who do not comply with the PSU submission provisions. This step not only provides a deterrent effect but also ensures that people's rights to public facilities are fulfilled. In addition, strict and routine supervision needs to be carried out to ensure developer compliance with applicable regulations (Heriani, 2022b).

The utilization of technology in the monitoring mechanism can also improve the effectiveness of PSU management. By using geographic information systems (GIS) and other digital platforms, the government can monitor the status and condition of PSUs in real-time. This allows early detection of violations or damage, so that a quick and appropriate response can be made. The implementation of this technology also facilitates coordination between relevant agencies in PSU management.

In addition, socialization to the community and developers regarding the importance of PSU in urban spatial planning is an important step. By increasing the understanding of all parties regarding the vital role of PSUs in creating a livable and sustainable residential environment, it is expected that awareness and active participation in maintaining and managing PSUs will increase. The Malang City Government can organize seminars, workshops and public campaigns to disseminate this information (Bidang Komunikasi dan Informasi Publik, 2021).

In this research, it has been identified that the conversion of Infrastructure, Facilities, and Public Utilities (PSU) that is not in accordance with regulations has a negative impact on the quality of the residential environment in Malang City. These impacts include a decrease in the quality of public services, incompatibility of land use, and potential conflicts between communities and developers. In addition, challenges in law enforcement and supervision by the local government, such as weak law enforcement mechanisms and lack of coordination between agencies, exacerbate this problem.

To overcome these problems, the application of good governance principles is crucial (Anggara et al., 2022, p. 347). Good governance emphasizes transparency, accountability, community participation, and fair law enforcement in PSU management. By applying these principles, it is expected that PSU management can run more effectively and in accordance with applicable regulations. In addition, a sustainability-based approach needs to be integrated in PSU policies to ensure that the management of public facilities not only meets current needs but also considers the impact on future generations.

The Malang City Government needs to evaluate and revise the existing PSU policy, prioritizing transparency in the licensing and monitoring process. The use of information technology, such as geographic information systems (GIS), can assist in real-time monitoring and management of PSUs. In addition, increasing the capacity of law enforcement officials and increasing public awareness through socialization and education on the importance of PSUs in urban spatial planning should also be a priority.

With a more transparent and accountable policy, as well as active participation

from all stakeholders, it is hoped that the problem of PSU conversion can be minimized. This will support the creation of a more organized, sustainable spatial layout of Malang City, and be able to improve the overall welfare of the community.

4. Conclusions

The conversion of Infrastructure, Facilities, and Public Utilities (PSU) into commercial buildings in Malang City is a phenomenon that not only contradicts applicable regulations, but also has a negative impact on the quality of the residential environment and community welfare. The novelty of this research lies in the focus of analysis on the effectiveness of supervision by the Malang City Government and the application of Lawrence M. Friedman's Law Enforcement Theory as an evaluative instrument. It was found that although regulations are available, such as in Law No. 1 Year 2011, Permendagri No. 9 Year 2009, and Malang City Regional Regulation No. 6 Year 2022, implementation in the field is still weak due to weak coordination between agencies, low developer awareness, and limited supervision by relevant agencies. The urgency of this research is apparent given the massive practice of PSU land conversion that is not in accordance with its designation, which causes material and immaterial losses to the community as well as the potential loss of public assets. Therefore, this research emphasizes the importance of reformulating supervisory policies based on the principles of good governance and sustainability, increasing transparency in the licensing process, and providing strict sanctions for violations committed by developers, as part of a long-term effort to realize a fair, sustainable and participatory PSU management system in Malang City.

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